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What the Press Said

Comment on the Ten Million Dollar Libel Suit against The Chicago Tribune

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Editorial Comment in the American Press

What American Editors Said about the Ten Million Dollar Libel Suit

Editorial Comment in American press on the lawsuit brought in the name of the City of Chicago against The Chicago Tribune

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Preface

IN the following pages will be found the views of the American press on the suit for ten million dollars damages brought against The Chicago Tribune by the corporation of the City of Chicago at the instance of the Thompson administration.

This suit was a novelty in American law, being founded on the theory that because a municipal corporation holds property, makes contracts, employs credit and carries on business, it is entitled to bring action like a private corporation, for libelous publication.

To this suit the Tribune filed demurrer chiefly on the ground that a municipality is a political agency, an agency of government, and that to permit a suit for civil damages for libel would be infringement upon the right of free speech and free press.

On this ground Judge Harry M. Fisher, of the Circuit Court of Cook County, sustained the demurrer in a notable opinion, widely quoted, as will appear in the following editorial discussion of the case.

From this discussion it will be observed that virtually the entire press of the United States, to say nothing of several of the leading newspapers of Great Britain, recognized the importance of the suit as a recrudescence of the long continued effort of governmental authority to paralyze criticism, an effort beginning with the Star Chamber and ending with the thorough establishment of political freedom in the American republic.

The suit is an anomaly, without precedent in American law, and as Judge Fisher remarked, is "not in harmony with the genius, spirit and objects of our institutions.

It does not belong in our day. It fits in rather with the genius of the rulers who conceived of law not in the purity of love for justice, but in the lustful passion for undisturbed power."

The comment of the American press on this case and Judge Fisher's decision, the Tribune believes, is of historical interest and therefore offers it to the newspaper fraternity and to the public as a noteworthy expression of American thought and principle.

ALTON (Ill.) *Telegraph*, Oct. 5, 1921.

Libel Suits and Officials

Mayor Thompson, in the name of the City of Chicago, has sued for libel The Chicago Tribune. The Tribune, the city's suit alleges, hurt the reputation of the city.

Many things are involved in the suit. There is, of course, the question of whether a newspaper is allowed to criticise public officials. There really should be no argument on this point. The modern American form of government is not the idealistic thing the fathers intended it should be. The people of this republican—not pure—democracy are guaranteed the right of getting rid of officials who do not, in the modern parlance, hit the ball. The method is the ballot box. But many things have been done to destroy this right. The greatest instrument against it is the political machine, a form of primary, party bossism and other things.

When all these elements destroy—as they have in many cases—the right of removal by the people, there must be some recourse. That recourse is the newspaper. If there ever was an inalienable right, it is that of the newspaper to criticise public officials. Any judge who would seek to deny or curb this right is taking from the American people one of its greatest treasures, a treasure no other people enjoy.

Then, in the Chicago case, Mayor Thompson, ostensibly, is using money of the city of Chicago to fight a newspaper which has criticised government of Chicago. The suit, it is to be remembered, has been brought by the city.

EAST ST. LOUIS (Ill.) *Journal*, Oct. 19, 1921.

Valiant Free Press Necessary for the Public Weal

The decision of Judge Harry Fisher that the city of Chicago had no actionable cause against The Chicago Tribune and News in the $10,000,000 damage suits instituted by the city administration positively and specifically upholds the freedom of the press as a constitutional right. The press is at liberty, the court

held, not only to exercise the equivalent of free speech in printing news and expressing opinion, but to expose wrongdoing in public office and even to attack public servants.

Modern society could not exist in security, nor representative government endure, without alert, just, impartial, vigorous and fearless publicity. And the untrammeled press, sincere in motive and honest in purpose, is the most indispensable of public institutions. The church, the schools, commerce, the people and the government itself depend on the daily newspaper as their most valuable and necessary auxiliary, using it constantly as their own medium to advance the general welfare.

The press sees and hears everything of importance in all parts of the world. Its vigilance and publicity prevent revolutionary upheavals, hold standard political entities together, locate and feed the starving and persecuted, and maintain a kind of international equilibrium of peace and progress. The press states or molds public sentiment and opinion against great wrongs and for noble principles.

The present is the people's era, and the press is the people's institution. That these are existent and recognized facts is demonstrated especially by the universal demand for publicity at the forthcoming disarmament conference. It is feared that the disarmament conference will not be sufficiently successful without the glaring light of publicity.

As the press is public, it must be free. Because it is responsible to the public, its abuse of power need not be feared, for the public would cease to support a newspaper that violated its trust or failed in its duty. Putting the press in chains would be the same as shackling the people. In the finality, it is by its fulfillment of public obligations that a newspaper merits respect and wields influence, and by disregard of public interests or the common weal that it destroys itself.

OSKALOOSA (Ia.) *Herald*, Oct. 18, 1921.

Freedom of the Press

The damage suit brought in the name of the City of Chicago against The Chicago Tribune for $10,000,000 involved more than an attempt to "get even with the press" for exposing a lot of public irregularities in Chicago. It held in its wake the destiny of the freedom of the press. Judge Fisher, in deciding to throw the case out of court recognized the importance of the danger, and emphasized it in his decision.

The decision was of far-reaching importance to newspapers, as the suit was the first on record in which a municipality sought to restrict the right to criticize its corporate acts.

The court said that examination of the early English law only served to point out the necessity of avoiding its principles. He characterized its history as telling the story of the struggle for human liberty.

"It is a succession of repressive measures with varying degrees of inhuman penalties on the one hand and a stubborn resistance to them by the champions of liberty on the other," Judge Fisher said.

"The freedom of speech and of the press was, at the very inception of our government, regarded as indispensable to a free state," said Judge Fisher.

The court said that torture and even death itself had not availed to suppress the desire for freedom of speech and public worship and that legitimate restraints had been narrowed down to four heads—blasphemy, immorality, sedition and defamation. Dismissing the first two as not involved in the present hearing, he held that if the articles in which The Chicago Tribune asserted that the city was "broke" were neither seditious nor libelous, they were unrestrained. He then pointed out that the counsel for the city had admitted that the publications were not seditious.

Judge Fisher extolled the part which newspapers play in modern industrial and social development and in times of national stress such as the recent war. He said that with increased power of the press had come naturally increased abuses of power. He pointed out that often a great part of the press is led to serve eco-

nomic interests to the detriment of the public, but he added that the harm it could do was limited by the fact that existence of a newspaper depends upon the public favor.

"It cannot long indulge in falsehoods without losing that confidence from which alone comes its power, its prestige and its reward," Judge Fisher said.

"On the other hand the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

The court said that if the present suit could be maintained" then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies."

From the Sioux City Journal, reprinted in the COUNCIL BLUFFS (Ia.) *News*, Oct. 24, 1921.

A Notable Press Victory

Judge Harry Fisher, of Chicago, in sustaining the demurrer of The Chicago Tribune to the $10,000,000 libel suit brought by the municipality, has helped to maintain the principle of a free American press. Again a notable newspaper victory has been won and a service of information and interpretation has been protected for the good of the public. A muzzled press would not be worth much in America where journalism has been developed to a point at which the newspaper is regarded as a public necessity.

Mayor Thompson had been attacked and criticised for his management of the city's financial affairs. Chicago was found to be unable to pay its current bills for its regular corporate expenses, and the Tribune and the News referred to this condition as "bankruptcy." It was pointed out by the papers that the city administration, which had been administering the affairs of the municipality, had brought the finances to such a condition of "bankruptcy." Therefore Mayor Thompson, in suing the two newspapers in the name of the city and in its behalf, charged that the good name and the credit of Chicago had been injured to the extent of $10,000,000. The two suits were the first on record

in this country, and the objective of the city officials was to restrict the right of a newspaper to criticise their corporate acts. In other words an organization or an individual which composed a part of the business or the social life of the community was to be restricted from expressing an opinion about the way the affairs of the community were being handled.

Once more it became necessary for an American judge to remind the public that this is America and not England. Only a few months ago another judge held in the case of Len Small, governor of Illinois, that the old English idea of "the king doing no wrong" could not be applied here because there were no kings in this country. Governor Small's attorneys had claimed immunity for their powerful client because of his executive position. Judge Fisher holds that the portion of the English law which restricted the liberty of the press had not been inherited by America. No lese majesty is possible here because America has no personage of majestic influence or character under the law. Referring to the suit, Judge Fisher said: "This action is not in harmony with the genius, spirit and objects of our institutions."

If the city of Chicago had been able to proceed with its suit against the Tribune and News, a precedent dangerous to American freedom, liberty and privilege would have been established. It would have meant that the great American public would be limited as to the service it received from the daily newspapers everywhere. That service consists of the news of the day and an interpretation thereof. If a municipality or other organization had the right under the law to enjoin the publication of facts and the expression of opinion in any particular, the barrier reared against the newspapers might be put anywhere. That would assail the very spirit of American liberty, would break down one principle after another until little of value would be left.

The newspaper stands apart as an American institution. Its purpose is twofold—the manufacturing of a commodity or service that can be sold at a profit for the benefit of its proprietors and employers and the dissemination of honest opinion and facts for the benefit

of the majority it serves. Any impairment of either is intolerable.

INDIANAPOLIS (Ind.) *News*, Oct. 18, 1921.

A Silly Suit

The silly libel suit for $10,000,000 damages brought against The Chicago Tribune by Mayor Thompson and other officials in the name of the city of Chicago evidently did not impress Judge Fisher of the Circuit court as having any merit—as of course it had not. For last week the court sustained a demurrer to the complaint—a demurrer that seems to have gone to the merits of the controversy. The theory was that the city of Chicago had been injured by the criticisms directed by the Tribune against Thompson and his associates. The judge held that such a suit "is not in harmony with the genius, spirit and objects of our institutions," and he continued:

> Stripped of all the elaborate argument, in the confusion of which the question for decision might look difficult, the fact remains that, if this action is maintainable, then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of every one who dares print or speak unfavorably of the men in power. . . . The press has become the eyes and ears of the world, and to a great extent humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed, and public office would be the rich reward of the unscrupulous demagogue.

The remedy of Thompson and the others, if they had been aggrieved, was clear—namely a libel suit on their own behalf. But they chose to put the city forward as plaintiff—whether they had any right to do this is certainly very doubtful—and to assume that the city was injured, not by the administration in power, but by the critic of that administration. This is no new theory; on the contrary, it has often been put forward by public officers seeking to silence just criticism, though

never till now has the city, through the very men criticized, sought redress in the courts. There have always been people to say that the city "would be hurt" if the truth were told, and that therefore silence should be kept concerning misfeasance, malfeasance or nonfeasance in office. That was the notion of the Tweed ringsters at the very time that they were robbing the city of millions. The crookeder public officials are, the more "jealous" are they for the good name of the city.

As far as Chicago has been injured it is not by the Tribune, but by Thompson and his crowd. It is amusingly impudent that they should have assumed to act in defense of the reputation of the city—impudent, and wholly in character. The real question, as Judge Fisher said, was whether they, as "public officials," should "have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies."

LOGANSPORT (Ind.) *Tribune*, Oct. 18, 1921.

Big Bill Loses

Mayor Bill Thompson's suit against The Chicago Tribune for $10,000,000 for alleged libel on the basis that the Tribune's statement that because of the manipulations of the political machine the City of Chicago was bankrupt, has been thrown out of court by Circuit Court Judge Harry M. Fisher on demurrer filed by the Tribune. Judge Fisher in sustaining the demurrer made this judicial statement:

"This suit is not in harmony with the genius, spirit or object of our institutions.

"It does not belong to our day, but rather to the day when monarchs promulgated laws with the purpose of carrying out their lustful passion for undisturbed power.

"Since no cause for action exists, it is unnecessary to consider any of the other questions involved in the argument."

HUNTINGTON (Ind.) *Press*, Oct. 22, 1921.

Judge Fisher in rendering his decision in the suit by Mayor Thompson of Chicago against The Chicago Tribune, said of a newspaper: "It is the spokesman of

the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue."

GOSHEN (Ind.) *Times*, Oct. 19, 1921.

Chicago Tribune vs. Chicago

Since his $10,000,000 damage suit was kicked out of court, Mayor Bill Thompson would doubtless welcome a suggestion of some workable plan to muzzle The Chicago Tribune.

GOSHEN (Ind.) *Democrat*, Oct. 26, 1921.

Free Press Upheld

When he brought a $10,000,000 libel suit against The Chicago Tribune in the name of the city of Chicago, because of criticisms of his administration, Mayor Thompson must have known that he had little chance of success. Free criticism of public officials or their administrations has been a popular institution of this country from the outset as well as one of its most important safeguards. Journalistic freedom has been and is sometimes abused, but, as Thomas Jefferson once wisely said, even that is "a part of the price we pay for our liberty, which can not be guarded but by the freedom of the press, nor that be limited without danger of losing it." Jefferson made this memorable statement in 1786. Fifty years later De Tocqueville, the visiting French writer, noted that no American had "as yet dared to propose any restriction on the liberty of the press." Now, 135 years later, the same may be said—unless we except Mayor Thompson's libel suit and its transparent aim.

That The Chicago Tribune's demurrer to the Thompson libel suit would be sustained by Judge Fisher of the Circuit court could almost have been regarded as a foregone conclusion. Judge Fisher upheld not only the Tribune

but a free press in general and the right of the people to be fully informed concerning their own affairs and interests. "The press," he says, "has become the eyes and ears of the world," and further: "It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed, and public office would be the rich reward of the unscrupulous demagogue." In this decision the Thompsons of every section are duly warned that they can never reverse popular sentiment in this connection, based as it is on the command of the constitution itself: "Congress shall make no law . . . abridging the freedom of speech or of the press."

JACKSON (Mich.) *Patriot*, Sept. 28, 1921.

Libeling Government

A few professional politicians, temporary occupants of public offices in Illinois, have brought suit in the name of the city of Chicago against a newspaper because of its criticisms of their public acts. They allege the city of Chicago has suffered material losses and impairment of credit because of the newspaper's attacks. No untruths are charged against the paper.

The doctrine that government can institute on its own behalf civil or criminal action for libel is a most dangerous one. If it is sustained, a member of Congress of one party might be declared a criminal for public criticism of an opponent on the floor of the House, ministers of religion would have to keep in mind the doctrine that they must not speak of the sins of their community from the pulpit, judges themselves might be assailed for giving a man a bad reputation.

Judicial remedies should of course be open to all citizens, but Government itself should not appeal to one of the most powerful of its own agencies, the courts, to establish the line between what is permissible and forbidden in criticisms of Government.

CADILLAC (Mich.) *News*, Oct. 12, 1921.

Mayor Thompson's administration in Chicago is suing the Tribune for libel because that paper declared the city was "broke" as a result of reckless extravagance in civic work. The defense contends that any criticism of an administration may be made without transgressing legitimate freedom of the press unless the criticism is calculated to incite citizens to disregard the law or to seek to overthrow the government. The Tribune has public opinion with it in attacking the Thompson machine just as it had in the libel action brought by Ford, the pacifist.

KALAMAZOO (Mich.) *Gazette*, Oct. 17, 1921.

The Tribune Suit

One of the most novel law suits ever brought in an American court, one, in fact, that is without precedent, was that of the City of Chicago against The Chicago Tribune, in which $10,000,000 was asked because of the newspaper's criticism of the civic administration. A Chicago judge disallowed the right of the city to have the fact of whether or not the city was libeled by the newspaper tried by a jury on the ground that the suit was not "in harmony with the genius, spirit or objects of our institutions," and "did not belong to our day, but rather to a day when monarchs promulgated laws with the purpose of carrying out their lustful passion for undisturbed power."

The fundamental law of the United States is the incarnation of justice, and regardless of the letter of interpretative enactments or the numerous abridging or amplifying decisions which govern our conduct, it is a fact that law born of a desire for power is unconstitutional, and should be immediately so stamped. It is, and it should be, on the other hand, the right of administrators and judicial officers to discharge their duties without fear or intimidation from any extraneous institution, even the press, because if the press is to enjoy the right of free speech it must respect that right and not permit it to attain the color of a privilege to trespass on the rights of others, since it is a Blackstonian fundamental

that for every right there is an obligation, and the obligation of the press is just as important as its right.

The wisdom of the Chicago decision will, therefore, be universally approved because the City of Chicago could not show that the plaintiff was for personal motives trying to embarrass the conduct of civic affairs, or itself trying to wrest from the elected officials of the city the power which properly belongs to them. The rights of the press remain unabridged, and it is meet and right that this should be so because in the role of critic it becomes the custodian of a great trust. But there should be no construing that right to mean that the press has a license to challenge well meaning administrations to the point where citizens will shrink from accepting public office, and where the power of administration, instead of being vested in the elected officials, will in fact be the property of the occupant of an editorial sanctum. The newspapers of America do not want such power. It would be an embarrassment, but they are not on that account disposed to surrender their right to discuss freely and fearlessly the motives and executiveship of administrations.

DETROIT (Mich.) *Free Press*, Oct. 18, 1921.

Chicago Loses a Lawsuit

The action for libel which was brought by the city of Chicago against The Chicago Tribune rested upon the accusation that the newspaper by untruthful charges against the city administration had impaired the credit of Chicago and had prevented it from borrowing money. A demurrer was filed by the defendant and the court has now held that the city has no right of action for libel against a newspaper.

The theory of the law in Illinois, as the court outlined it, is that the utmost freedom of public criticism is desirable in public affairs, and that any state of the law which permitted a public administration to defend itself against its critics by libel suits financed out of public funds would result in an intolerable restriction upon free speech and a free press.

It may be said that a city having an honest administration of its affairs ought not to be left without redress

for false and damaging charges and that if the law does not provide a remedy, the door is open for any mendacious enemy of the city to damage it by lying accusations. The force of this position is not to be denied, but against it there stands considerations weighty enough to overbalance it completely.

It is to be remembered first that the inability of a municipal corporation to sustain actions for libel does not extend to the officers of a city. If they are charged with wrongdoing in office, they may go to court; but when they go, it will be upon their own responsibility and they will pay their own way. They will not be able to turn the people's money and the organization through which the people govern themselves against private citizens and private enterprises. A vindictive man in office might make it dangerous for any honest citizen to speak his mind about city affairs if officials could turn the city's law organization and the city purse against citizens in libel suits. Public criticism is the first weapon of the people against bad public administration, and it is too precious to be threatened or limited by the men against whom it is directed. Their remedy is to go to the people with answers to their critics and in the long run it will be a sufficient remedy.

GRAND RAPIDS (Mich.) *Press*, Oct. 19. 1921.

Fighting Press Freedom

The Chicago Tribune has just waged a successful battle in court for the freedom of a newspaper to criticize a city's administration, expose corruption wherever possible and tell the facts about the situation in the public treasury. The Thompson-Lundin machine last spring filed suit for the city against the Tribune for $10,000,000 damages, the claim being that the city's credit was injured by the revelations published in the newspaper. Judge Harry M. Fisher, in dismissing the case, made it very plain that to hold the Tribune for its plain speech would be a blow at press freedom in general and the right of the people to be informed about their government.

Tammany, as represented in the Murphy-Hylan control of New York, has also been trying to stifle the free

utterance of press opinion. Recently the New York city hall issued a proclamation to the business men, merchants and shopkeepers of the city, informing them that the New York crime wave was due to the fact that the newspapers had charged rotten administration with making the city "a paradise for criminals" and were thus drawing lawbreakers to prey upon citizens. The city hall deduced from this that the dealers should "act accordingly"—in other words, withdraw their advertising—to scare the papers into a state of proper submission to the city hall. The rotten administration was not disproved.

These two machine moves against journalism are a type of the sort of sporadic attack upon courageous publicity which has occurred ever since men have found reason for being afraid of the truth. The untrammeled newspaper is the public's great defense against corruption; and if the Thompsons and Hylans of the land ever succeed in such attempts against the newspapers of their cities we may as well hand over our political freedom to the dictator along with our principles of free speech and free press.

GRAND RAPIDS (Mich.) *News*, Oct. 20, 1921.

The Tribune's Law Suit

In a sweeping decision, Judge Harry M. Fisher, of the Circuit court at Chicago, has upheld The Chicago Tribune as against the city in a suit for libel brought by the latter because of the Tribune's charges that the municipality was bankrupt. The Tribune has kept up a constant fight on the so-called Thompson regime, charging Thompson and his followers with gross misapplication of funds, extravagance and misconduct in administering the affairs of the city.

"This action is not in harmony with the genius, spirit and objects of our institutions," read the written opinion handed down.

"It fits in rather with the genius of the rulers who conceived law, not in the purity of love for justice, but in the lustful passion for undisturbed power.

"It will, therefore, be unnecessary to consider the other questions involved."

There is a growing tendency among public servants to consider the business of public administration as their business. It is their business to the extent that they are citizens and taxpayers, but it differs from a business owned in fee simple by an individual in that it belongs to the whole community, state or nation. To prevent a newspaper from disclosing what goes on in the conduct of public affairs would be the same as denying the proprietor the right of access to his own books.

The only check that the taxpayer has on his servants in office is that afforded by publicity through the columns of his newspaper. Most municipalities are unwieldy in their size. There is no end to the opportunities for irregular conduct. Favoritisms and prejudices are the order of the day. What would happen to government in these days of free and easy abandon if it were not for the newspapers only those can conceive who can visualize the worst. And goodness knows that Chicago needs all the checks that can be placed on a coterie of public officials, who, whether the public likes it or not, do pretty much as they please.

CADILLAC (Mich.) *News*, Oct. 27, 1921.

Cities and the Libel Law

That a newspaper has the right to criticize a municipality without fear of being held accountable for libel is established by the decision handed down by Judge Fisher of Chicago in deciding the suit brought against The Chicago Tribune and the Daily News by Mayor Thompson. Thompson, long the object of attack on the part of both papers, brought suit against the papers for ten million dollars, alleging that they had printed false statements regarding Chicago's financial standing, thus injuring the city's credit. Mayor Thompson sued in the name of the city, making this the first suit of the kind in which a city sought to restrict the right to criticize its corporate acts.

The court held that libel was applicable only to private persons or corporations, therefore the action of the papers

in criticizing corporate acts of the city was permissible without fear of libel. This suit has been watched with great interest, not only by newspapers, but by dishonest officials who saw in a favorable decision for the city of Chicago a powerful weapon to use against the press, and thus further their own dishonest ends. Had the court established the ruling that it is possible to libel a municipality it would be possible for dishonest officials to use the public funds to hide their own misuse of their offices, and no newspaper would dare expose their crookedness. A favorable decision by Judge Fisher would have provided a shield for dishonest officials which would have enabled them to continue their operations unchallenged by public opinion because the press would not dare bring them to account.

A newspaper's power for good in any community rests upon the faith which its readers have in it. It must be truthful and fair in all its dealings with the public. Its readers will not long tolerate a newspaper which is untruthful, and once the faith of its readers is destroyed it ceases to be an agent for good in any community. The record of its daily acts is spread upon its pages for all who care to look at it. In the interest of the public's welfare it frequently is compelled to criticize the acts of officials chosen by the public to serve it. If it were not for an honest and fearless press there would be many more cases of dishonesty on the part of public officials, and it is therefore a matter for congratulation that a court decides the press has the right to hold strictly to account individuals who are holding positions of public trust.

DULUTH (Minn.) *Herald*, Oct. 17, 1921.

A Just Decision

The city of Chicago, by its own choice and for its sins, has a city government that smells to heaven. The better class of Chicago newspapers have fought it, and in fighting did not mince the words it used as weapons.

The Thompson regime, enraged by the publishing of too much truth, had the city bring enormous libel suits against The Chicago Tribune. The city, speaking for the Thompson gang, asserted that the charges of the

newspaper had damaged the city's financial standing, to the injury of its credit.

This raised some very interesting questions, which the Tribune's attorneys brought out through a demurrer to the complaint. The ten million dollars asked for would of course result in the confiscation and suppression of the newspaper if such damages were awarded. And the press, they contended, should not be prevented by such means from attacking evils in government.

On the last point Judge Harry Fisher, before whom the case came, has sustained the demurrer and thrown the case out of court. And by so doing probably he has thrown hundreds of other such cases out of court; for if a city can be legally damaged by newspaper attempts to overthrow their corrupt and inefficient governments, then either newspapers would keep still or the courts would be busy collecting libel damages.

"This action," said the judge, "is not in harmony with the genius, spirit and objects of our institutions." Wise judge! Sound decision! It is a victory not only for a free press, but for sound government and decency in public affairs.

CROOKSTON (Minn.) *Times*, Oct. 26, 1921.

Press Freedom

The suit for $10,000,000 damages brought against The Chicago Tribune by Mayor Thompson of Chicago has served a good purpose by pointing out once more, in an emphatic manner, the function and merits of the newspaper press in general.

The suit was dismissed by the court as an unwarranted attack on the freedom of the press. Because the Tribune criticized the mayor's conduct of city affairs, the mayor, identifying himself with the "city" in a way not uncommon among office-holders of long tenure, tried to put the Tribune out of business. Judge Fisher, in upholding the right of the defendant to publish its criticism, declared:

"The press has become the eyes and ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their

power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public offices would be the rich reward of the unscrupulous demagogue."

This is the literal truth, as every thinking citizen doubtless agrees. The law and public opinion both recognize that, whatever may be the possibilities of the press abusing its great powers, they fear far less than the dangers that would spring from the repression of honest comment.

MANITOWOC (Wis.) *Herald*, Sept. 24, 1921.

The Tribune's Suit

The City of Chicago is suing The Chicago Tribune for printing the alleged fact that the city was "broke." It was claimed that this is libelous in that it would tend to injure the credit of the city. If it was so, it was the plain duty of the Tribune, as a public servant, to publish the facts in the case. If the city wins its suit, it may establish a dangerous precedent. Dangerous to the people of the country, who rely on their newspapers for what information they have regarding the conditions of their government. It may have been so, or it may not have been so, but certainly there was some reason for the publication of the statement. Granted that it may have had a political motive, and that it was not true that the city of Chicago was "broke," still the publication of a public matter of such importance would be calculated to stir up a considerable public interest in the condition of the finances of the city. If there was nothing the matter with them the Tribune's statement could easily be shown by its opponents to be false and misleading. If it was true, it was the plain duty of the paper to say so. But to make statements regarding public matters libelous is to put a muzzle upon the press which will result in the suppression of news, which will effectively prevent the publication of any news in any city liable to be detrimental to the administration. Surely if all that is necessary for city officials to do in the event of publication of statements regarding their actions is to go into court and sue for libel, very few newspapers will

print their views on public matters. Public officials, often honest enough, but placed in a position in which it is so easy to dispose of other people's money, will be protected against exposure, and the honest man will have considerable difficulty in getting his argument before the people. The Chicago officials, having played hob on so many occasions with the money of the taxpayers, naturally resent any interference with operations. But the people should be alive to the dangers of suppression of the press, the freedom of which is guaranteed under the constitution.

Wausau Record-Herald, reprinted in
MARSHFIELD (Wis.) *News*, Sept. 26, 1921.

The Tribune's Libel Suit

The city of Chicago has sued The Chicago Tribune for ten million dollars. If it wins the suit the Tribune will be practically broke, but that eventuality is so remote that the people chiefly concerned are probably not worrying much about it. Whatever the facts in the case may be, the general opinion throughout the country is that the city of Chicago can't stand the publicity in court which would be necessary to prove anything against the Tribune.

The suit may be accepted as a gesture, a gesture not meant to impress the country at large but a certain set of ignorant voters in the city of Chicago who insist upon displaying the depths of that ignorance by repeatedly returning to power city officials who not only fail to give them a good government but who make that government cost more than a good government should.

Outside of the city of Chicago the main interest in this suit is not whether the Tribune has said some things that were not true about the city government but whether the privilege of the press is to be in any way hindered or abridged. It is certainly indispensable to good municipal government in a city like Chicago that the press have the freest possible hand in criticizing abuses.

The present suit attempts to overthrow this privilege under the contention that the city has suffered material damage owing to the evil repute of the city government which has come about through the efforts of the Tribune.

If a group of city officials are permitted to stifle criticism by a device of this kind the conditions of municipal government in the large cities of this country, which are bad enough as it is, will soon become utterly intolerable.

FOND DU LAC (Wis.) *Reporter*, Oct. 17, 1921.

The decision of the courts in the libel suit instituted against The Chicago Tribune by the City of Chicago, is not only a victory for the Tribune but also for a free press—something guaranteed by the constitution of the United States but which public officials and even courts some times have sought to override or set at naught. In the Tribune case the courts held that a city government could not be libeled and that the Tribune had a right to criticize the financial condition of the City of Chicago and in so doing was but fulfilling its mission as a newspaper and a guardian of the public interests. Officials are all too often inclined to imagine when they attain office that they are supreme and are answerable to nobody during their tenure of office. They consider their acts and official records as matters concerning themselves only, but all such acts are open to public criticism by the press and all official records are at all times accessible to the press despite official contentions to the contrary, as the press is the representative of the public and as such has a right to criticize and demand in the public's name. Most of all it is the guardian of public interests, a guardian without which officialdom in many instances would run amuck with a vengeance whenever it so desired.

EAU CLAIRE (Wis.) *Telegraph*, Oct. 18, 1921.

In the suit nominally by the City of Chicago against two Chicago newspapers for allegel libel, the court held that no such suit could be sustained in this day and age and hence threw the case out. If a city could maintain such an action for damages on account of newspaper comment on governmental affairs, there would be an end to press criticism of public wrongs except by would-be journalistic martyrs.

GREEN BAY (Wis.) *Gazette*, Oct. 18, 1921.

Freedom of the Press Protected

In sustaining the demurrer of The Chicago Tribune to the $10,000,000 libel suit brought against it by the corporation counsel in the name of the city of Chicago, Circuit Judge Fisher has performed notable service for freedom of the press. His decision throws the case out of court as constituting no cause for action. The judge's excellent conception of the real issues involved in the suit is shown in his comment that it is an action "not in harmony with the genius, spirit and objects of our constitution," and that "it fits in rather with the genius of the rulers who conceived law not in the purity of love for justice but in the lustful passion for undisturbed power." This is a clear distinction between popular government and boss rule. The machine in the city of Chicago built up by the Thompson-Lundin forces seeks exactly that "undisturbed power" which will permit it to despotically control municipal affairs. It is under just such power that cities are looted, taxpayers robbed, trusts betrayed, public morals debauched. It is under such power that graft and corruption thrive. It is precisely the character of Tweed government and later of Tammany government in New York City.

If these political machines, bent upon the seizing of arbitrary power and upon the exploitations that go with it, could shield themselves against attack and exposure by bringing libel suits against the press in the name of the city, thereby avoiding personal and financial responsibility, the people would be robbed of all protection. As the court says, the honest official seldom fears criticism. He answers argument with argument, but the dishonest official is restrained by the fear of laying his character open to judicial inquiry. To permit him to cloak his iniquities by labeling suits with the name of the municipality would be equivalent to muzzling the press through libel actions ad infinitum.

The Chicago Tribune charged that the Thompson administration had brought the city to the verge of bankruptcy. Whether this is precisely true or not, there can be no question as to the public service it was rendering the city. If Mayor Thompson has been personally

libeled that is a different matter and is of course actionable, but that could have nothing to do with a suit instituted by the city. To hold otherwise would be to destroy the very foundations on which honest, responsible government rests, while the freedom of the press, easily the most potent factor for safeguarding our institutions, would be put under the heel of politicians, gangsters and grafters.

The Tribune has won its first great victory in its battle with boss government in Chicago. That it and the Daily News, which has taken an equal part in the crusade, will win other battles and eventually clean out the Augean stables follows as a matter of course. Politicians of the kind that rule Chicago cannot stand up against an aroused, fighting press. Publicity will be their undoing. Nationally considered, there is a state of perpetual warfare between the forces which would deprave government and the press. At times these forces loom large but the newspapers "get" them eventually. The Chicago decision is a victory for constitutional liberty and for every municipality in America, for without freedom of the press assured there would be no security against corrupt and vicious government anywhere. The principle upheld is of the first magnitude in the perpetuation of our institutions.

JANESVILLE (Wis.) *Gazette*, Oct. 19, 1921.

Newspapers and Criticism of Officials

Far-reaching and effective will be the decision upholding the demurrer of The Chicago Tribune in the suit of the City of Chicago against the newspaper, charging libel and seeking to collect $10,000,000 damages. Of course the "city" itself really did not sue. A city is its people. The city officials sued in the name of the city, but in doing so sued itself, for the Tribune is also a part of the city through its individual ownership. The aggrieved parties were the criticized officials. Involved also was the right of a newspaper to criticize, and to discuss officials and their acts. In 1908, when the New York World and Indianapolis News brought out some facts in reference to the activity of Douglas Robinson, brother-in-law of President Roosevelt, an effort was made to sue the

papers and hale them to Washington for trial under the assumption that the World and the Indianapolis News circulated in the national capital.

It was almost a parallel case, as the government itself was held the aggrieved party plaintiff. Federal Judge A. B. Anderson dismissed the case, holding that the defendants could not be carried to Washington to be tried in an antagonistic atmosphere where the archaic libel laws of the District of Columbia were in force, and also said something that every public official and every newspaper should know:

> "It is the duty of a public newspaper * * * to tell the people, its subscribers, its readers, the facts that it may find out about public affairs and matters of public interest. It is its duty to write and draw inferences from the facts known."

But Judge Fisher, who upheld the demurrer of The Tribune Company and dismissed the city suit against the newspaper, went even farther in his statement as to the function of a newspaper in its attitude toward public matters.

"But for it [the press]," says the court, "the acts of public benefactors would go unnoticed, impostors continue undismayed, and public office would be the rich reward of the unscrupulous demagogue. Knowledge of public matters would be hidden in the bosoms of those who make politics their personal business for gain or glorification."

There is one great corrector of evil—publicity It is the only thing that the people of a free government, a government based on the sovereignty of the individual guaranteed by his right to the ballot, may depend upon. For that publicity, the public must look to the newspaper. A newspaper might well find the easiest way to let things slide along with no mention of the derelictions, minimize the waste, or it can be constructively helpful in calling attention to places where the funds of the city—that means the men and women and children who make up the population of the city—are being wasted and officials are lax in measures to correct evils that are patent.

Courts untrammeled nor moved by politics or political considerations and a free press are the two great bul-

warks, the protective fortifications, of the American republic of the United States.

MILWAUKEE (Wis.) *Sentinel*, Oct. 19, 1921.

The Duty of Free Speech

Bearing in mind the possibility of an appeal to a higher court, it may be said that the decision in the suit brought by Mayor Thompson against Chicago newspapers has resulted in a restatement of certain fundamental doctrines that is not likely to be reversed if it should come up for review by another tribunal.

Briefly, the issue turned on the question so hotly debated during the war: "How far is a citizen entitled to go in criticizing his government?" In the present case, the governmental agency that felt aggrieved was the municipality of Chicago, but the same reasoning would apply to state and national administrations. That the newspapers were selected to bear the brunt of the charge of having impaired the city's credit by their criticism is also nonessential, for the same liability would attach to criticisms uttered by individuals in conversation.

In defining the limits of justifiable free speech the court ruled against extremists of two opposite schools. There is little comfort in the decision for hidebound officialdom which inclines to the bureaucratic and paternalistic view that the government knows better what is good for the people than the people themselves. This idea, the court finds, originates in a "lustful passion for undisturbed power." If every critical remark were just ground for harassing the critic with a lawsuit, "then public officials have in their power one of the most effective instruments with which to silence their enemies."

On the other hand, the wail of the radicals who have been so prolific in their abuse of our government during the last few years is cut short by a sharp reminder that there are "fields in which all who are decent and possess a sense of reverence and loyalty have agreed it would be overstepping the bounds of freedom to travel without restraint, namely, blasphemy, immorality and sedition."

A sense of balance in interpreting constitutional liberties must rest on good will toward the government. The citizen whose heart is in the right place will agree

with the court in holding that so long as he is not "inciting a breach of the peace, he is not only within his absolute right, but is performing a public duty" in using free speech in the way it was intended to be used: to keep the government close to the people.

MANITOWOC (Wis.) *Herald*, Oct. 24, 1921.

Press and Government

Popular rights and political efficiency are both upheld by the decision of a Chicago judge, throwing out of court the $10,000,000 suit brought against The Chicago Tribune by the mayor of the city. The action was inspired by criticism of the mayor. Though drastic, the court held that such criticism was a legitimate function of a free press—a verdict in which public opinion will probably concur, regardless of the character of the litigants themselves.

The need of freedom in printing news and commenting on it becomes greater as communities grow and public business, like all other business, becomes more complex. The newspaper is a sort of responsible middleman between the public and its officials, representing the interest of the former while closely observing the latter, recording their acts and holding them to strict account. It is a great power which the newspaper wields, but there is little danger of its being abused more than momentarily. Its work is all public, and so the public itself is in position at all times to hold it to its duty, prospering it by support or destroying it by disapproval.

The press has become, therefore, a powerful though unofficial organ of government. Intelligent popular government would be impossible without it. Continuous progress in government is possible mainly because, while public servants come and go, the press is permanent, forever on the job of public service, translating public will into public action.

Holyoke (Mass.) Transcript, reprinted in
BARRON (Wis.) *News*, Nov. 25

Newspaper Rights and Duties

Volumes have been written about the power of the press and, doubtless, volumes will continue to be written to the end of time. But Judge Fisher of the Circuit Court at Chicago, in the decision in which he ruled in favor of The Chicago Tribune in a libel suit brought against it in the name of the city of Chicago, but in reality by a political gang in the city, which resented the fearless expose of its weaknesses by the defendant paper, crowded within the limits of his decision some thoughts that come home with great force to the mind of the true newspaper man. Here is one of unusual power:

"The press has become the eyes and ears of the world, and to a great extent brings humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue."

And a little later Judge Fisher expressed in clear-cut fashion a principle that lies deep in the mind of every editor worthy of the name. It is that a newspaper which makes it a practice to mislead or misinform its readers cannot prosper. Said Judge Fisher:

"It cannot long indulge in falsehoods, however, without losing that confidence from which alone come its power, its prestige and its reward. On the other hand, the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

The court said that if the suit could be maintained "then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be used over the head of everyone who dared print or speak unfavorably of the men in power."

CLEVELAND (Ohio) *News*, Sept. 26, 1921.

New York and Chicago Mayors Try Suppressing Freedom of the Press

Disapproving the conduct of municipal affairs in the last four years, many citizens of New York and most of the newspapers there favor the election of a new mayor. This displeases Mayor John F. Hylan, who hopes to be re-elected in November. It seems to make him particularly "mad" that newspapers should dare to criticize even a mayor. So he has given an interesting exhibition of endeavor to use his official position to punish the papers guilty of finding fault with his official acts.

Mayor Hylan has promulgated a proclamation aimed at the offending journals. In it he accuses them of advertising New York as "a paradise for criminals" and "a gold mine for thieves." He speaks of the "hate-crazed newspaper publishers" who oppose his re-election. He wants citizens to curb those publishers. He calls on "business men, merchants and shop keepers" in particular to "think this over, place the blame where it belongs—and act accordingly."

Mayors' proclamations usually are issued by publication in the newspapers—the only way in which they can be widely and promptly circulated. But would the New York papers publish a mayoral proclamation suggesting that those papers be avoided by readers, blacklisted by advertisers, boycotted, mobbed or otherwise curbed? The papers would and did, with glee. All five morning papers published the proclamation, though four of them are anti-Hylan. The only surprise is that a paper politically friendly to the mayor should have joined in the exposure of Hylan temperament.

Now consider the Chicago instance. It may be less amusing, but more instructive. We gather that the city government of Chicago, like that of Cleveland and almost every other city, has been short of funds. Probably it has disliked to economize, as individuals and private businesses must, and has taxed its citizens as heavily as possible. Apparently it has also been borrowing money, or trying to borrow it, rather than stop some of its spending and try to live within its income.

We suppose Chicago newspapers, feeling that the taxpayers' interests were not being sufficiently taken into account, protested against some of the taxings, borrowings and spendings—as newspapers always have done in American cities. We should think they might, considering that Chicago's tax levy comes to $84,973,000 a year, or almost ten times Cleveland's, though her population is much less than four times Cleveland's and her total real estate tax valuation or duplicate is about the same ($1,653,171,000 for Chicago to $1,600,000,000 for Cleveland).

The Chicago Tribune, Chicago's foremost newspaper, has been foremost in condemning the taxing and spending, we take it. At any rate, the Tribune has been singled out for attack by the city administration and the attack has taken the curious form of a libel suit, brought in the city's name, against the Tribune for $10,000,000. The city government alleges that it has been damaged to that extent because the newspaper's comments on the conduct of public business have injured the city's credit and hampered the city administration in borrowing more money. As the dispatches point out, the $10,000,000 demanded amounts to virtually the total value of the Tribune's physical property. Mayor William Hale Thompson's administration is, in effect, asking the courts to put Chicago's biggest newspaper to death for daring to defend the people against the extravagance of the taxspenders.

"Only arbitrary, oppressive or corrupt power has sought to enslave or destroy the free utterance of the press," Attorney Weymouth Kirkland told the court in opening the argument for the defense and reviewing tyranny's attempts to suppress freedom of speech since the days of the Roman empire. "The city's form of attack is novel and, in America at least, without precedent. But the end and animus are the same as marked the whole course of obstruction to free expression—namely, to protect entrenched authority from inquiry and criticism."

Where the New York exhibition is only diverting, the Chicago affair carries a serious suggestion of danger. In this case the court may handle the absurd case as it deserves, but who can tell what another court may do in

another case? Courts sometimes give strange decisions and do not always seem to give the public interest much consideration—as Clevelanders need not be reminded. In addition, judges may be subject to political influence wielded by mayors or other officeholders seeking to suppress public criticism of their acts. Such efforts to muzzle newspapers might even command the sympathy of judges trained to regard any adverse criticism of themselves as wrong, unlawful and punishable at their pleasure. In fact, contempt-of-court proceedings have hitherto constituted the greatest and almost the only menace to that freedom of the press which the constitution of the United States guarantees as essential to freedom of the people.

The mayors of New York and Chicago may not know it, but an attack on one is an attack on the other. The American people know it. They will fight as hard as may be necessary to overthrow any who attempt to chain and gag the newspapers of America. For they realize that their liberty is at stake and that it would be lost if their newspapers could be suppressed for venturing to tell them the truth about the acts of their elected servants, ambitious to turn masters!

WASHINGTON (Ohio) *Herald*, Sept. 26, 1921.

Full Publicity

The trial of the case, in the courts of Cook county, Illinois, in which Chicago city officials are seeking to recover from The Chicago Tribune ten million dollars on account of a publication appearing in that newspaper which, it is alleged, libeled them, is calculated to make us all do a little thinking.

We are not familiar with the facts forming the basis for that suit, and not until the case is finally disposed of would it be proper to comment on them anyway. The beginning of that trial, however, does bring forcibly to our attention a very manifest tendency on the part of officials, in many sections of the country, to restrict publicity.

There has grown up a very decided inclination to keep official action in the dark, to keep the public in absolute ignorance as to all facts, and to briefly and formally announce the official conclusion.

Generally speaking, the people are entitled to all the facts upon which official action is predicated. There are no rulers in this country of ours. The very keystone of our arch of free government is publicity—a free press and free speech and open sessions of all court and official proceedings.

Generally speaking, that is true and yet sometimes when we see how designing and selfish politicians of petty dimensions can misstate and willfully pervert facts, the nonsensical conclusions they urge as logical, the gullibility of so many people, we are inclined to doubt the wisdom of adhering to a literal insistence on publicity guarantees.

Right now there is a hue and cry being raised demanding full publicity during the sessions of the disarmament conference.

Naturally we all want to know what is going on. We do not take kindly to any behind the scenes activity. We don't relish "canned" conclusions of officials and yet we want success to attend the conference more than we do to satisfy a justifiable curiosity. When we think what may happen when the two by four political wiseacres get all the detailed facts and discussions in advance of final action, we fear that they may be able to stir up a very dangerous misunderstanding again as they have done before.

YOUNGSTOWN (Ohio) *Telegram*, Oct. 17, 1921.

Escaping the Gag

Mayor "Big Bill" Thompson's unique plan for muzzling all the Chicago newspapers except the ones that laud "Big Bill" has failed. The Chicago Tribune and Chicago News have won the suits brought against them for traducing the fair name of the city of Chicago $20,000,000 worth—$10,000,000 in each instance.

In throwing the suit out the court did not pass on the truth or falsity of the charges made by the two newspapers. It merely ruled that the city as a corporate person cannot bring suit for wounded sensibilities or injured credit. As mayor of the city for the last six years "Big Bill" Thompson is chiefly responsible for the credit and good name of the city and there is nothing to prevent him

bringing suit in his own name against the offending newspapers if he believes the charges made by them are untrue.

The mayor has no intention of bringing such suit. The chances of victory are too slight. He will have to hunt up some new scheme for destroying the freedom of the press.

YOUNGSTOWN (Ohio) *Vindicator*, Oct. 18, 1921.

In sustaining the demurrer of The Chicago Tribune to the $10,000,000 libel suit brought by the city of Chicago, Judge Fisher took the only course possible under the circumstances. Chicago officials sued the Tribune and the Daily News on the ground that the criticism by these two papers of the city's financial administration had injured the city's credit. Judge Fisher held that if the suit could be maintained, "then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be held over the head of everyone who dared print or speak unfavorably of the men in power."

"Freedom of speech and freedom of the press were, at the very inception of our government regarded as indispensable," Judge Fisher remarked, adding that the city's attempt to restrict them was "not in harmony with the genius, spirit, and objects of our institutions." He added a warning, however, which many newspapermen need. "The press," he said, "cannot long indulge in falsehoods without losing that confidence from which alone come its power, its prestige and its reward. On the other hand, the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

DAYTON (Ohio) *Herald*, Oct. 18, 1921.

Freedom of the Press

The action of Judge Fisher of Chicago, in throwing out of court the action brought by the city against The Chicago Tribune, in which $10,000,000 for libel was sought, is in spirit and harmony with American customs

and traditions. The day when the press can be muzzled is past, if, indeed, it ever generally existed here in America.

The city of Chicago claimed the Tribune had libeled it by printing the statement that it was bankrupt. In support of its plea for damages it claimed that the statement had so injured its standing and credit that its bonds no longer found attractive markets. The Tribune, by demurrer to the suit, maintained that no cause of action properly existed.

In dismissing the case Judge Fisher wisely ruled that it was not in harmony with the spirit and object of American institutions, but belonged to that day when monarchs promulgated laws for the purpose of carrying out their passion for undisturbed power. He refused to try the case on its merits, because it had no merits.

The decision will be universally approved in free America. The freedom of speech guaranteed by the constitution means freedom of speech for the individual and for the newspapers which speak for him. The newspaper is a vital element of free government. To limit its proper criticism of individuals in the public service for wrongs brought about by that service, is inconceivable. In that case the individual would be put above his work. He would be free to act as he pleased, to serve the interests he desired to serve and to encumber government with obligations which the people who compose government instantly would disapprove and repudiate if they were given the opportunity.

The newspaper is the bulwark of free government, the refuge of right and the enemy of wrong. It is the guardian of the public will and so long as free government endures, it cannot be limited in the proper functions it must enjoy in order to be free to carry out the will of a free people, unfettered in spoken or written word.

The American press is free, and it must be kept free.

CLEVELAND (Ohio) *News*, Oct. 19, 1921.

Newspapers Still Free

The constitution of the United States means what it says as to the freedom of the press. American newspapers may tell the truth, even about politicians in office,

and not have to shut up shop on demand of the angry politicians. If a city government is conducted extravagantly, recklessly or badly, the people of that city may learn about it through their newspapers, since the newspapers are not to be intimidated by fear of having their plants taken from them.

All this has just been decided by an American court, by Judge Fisher of Chicago. So the statements in the foregoing paragraph are not such self-evident truths, such simple facts of American liberty, that they could be taken for granted in the absence of judicial decision upholding them.

The case decided by Judge Fisher was the $10,000,000 suit brought against The Chicago Tribune and recently mentioned in these columns. The action was brought in the name of the city of Chicago by Mayor William Hale Thompson and other officials, whose official acts and policies the Tribune had dared to condemn. The politicians' claim was that the publicity had libeled the city government and injured its credit or borrowing power. The $10,000,000 demanded as damages was about the total value of the paper's property. Had the politicians won the suit, the Tribune would have been put out of business and city hall politicians everywhere would have been free to go as far as they liked without fear of publicity.

Fortunately, the judge sustained a demurrer entered by the newspaper, threw the absurd case out of court and notified the city hall crowd that they had no cause of action. Said Judge Fisher: "This action is not in harmony with the genius, spirit and objects of our institutions."

That is true, of course. Yet that obvious truth did not serve to prevent the bringing of the anti-constitutional lawsuit. It did not spare the judge, when he wished to throw the unprecedented case out of court, from entering into an explanation that court decisions in foreign countries do not necessarily apply in this country, that the United States never inherited provisions of the English common law restricting the liberty of the press, that the laws of medieval England are as much to be avoided as followed, and so on.

When an elemental principle of American freedom is not to be protected from initial attack without that sort of argument, American freedom is not so secure as it might be. Though we may be thankful for Judge Fisher, we may be fearful that another judge, another time, may be more amenable to politicians than to principles. It is still as true as ever that eternal vigilance is the price of liberty.

SPRINGFIELD (Ohio) *Sun*, Oct. 20, 1921.

The decision of Judge Harry Fisher that the City of Chicago had no actionable cause against The Chicago Tribune and News in the $10,000,000 damage suits instituted by the Thompson administration, following newspaper criticism of that administration, positively and specifically upholds the freedom of the press as a constitutional right.

The press is at liberty, the court held, not only to exercise the equivalent of free speech in printing news and expressing opinion, but to expose wrongdoing in public office and even to attack public servants.

Modern society could not exist in security, nor representative government endure, without alert, impartial, and fearless publicity. And the untrammeled press, sincere in motive and honest in purpose, is the most indispensable of public institutions.

The church, the schools, commerce, the people and the government itself depend on the daily newspaper as their most valuable and necessary auxiliary, using it constantly as their own medium to advance the general welfare.

The press sees and hears about everything of importance in all parts of the world. Its vigilance and publicity prevent revolutionary upheavals, hold standard political entities together, locate and feed the starving and persecuted, and advance those things which make for progress. The press states or molds public sentiment and opinion against great wrongs and for great principles.

As the press is public, it must be free. Because it is responsible to the public, its abuse of power need not be feared, for the public would cease to support a newspaper that violated its trust or failed in its duty. Putting the

press in chains would be the same as shackling the people. In the finality, it is by its fulfillment of public obligations that a newspaper merits respect and wields influence, and by disregard of public interests or the common weal that it destroys itself.

SPRINGFIELD (Ohio) *News*, Oct. 20, 1921.

Freedom of the Press

If the press of this country has any particular right to exist that right is centered in the privilege of being plain spoken. And so the action of Judge Harry M. Fisher of the Circuit Court of Chicago in sustaining a demurrer of The Chicago Tribune to Mayor Thompson's $10,000,000 libel suit is important. Under the guise of representing the City of Chicago, Thompson sought damages for an imaginary libel which the Tribune allegedly had been guilty of. The court held that

> "The press has become the eyes and ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue."

In this tribute to the press the court has emphasized what other courts in other days have held as the just measure of expression of the power and position of the press. Every honorably conducted newspaper in America is upheld in the court's decision and warning is issued to unscrupulous political bosses and enemies of well ordered society that they have no recourse at law when their intrigue against civic government is uncovered and thrown upon the screen for the public to gaze upon and reflect over. The press is a bulwark of strength to community life and the avenging arrow that pierces the heart of unlawful enterprise.

AKRON (Ohio) *Times*, Oct. 23, 1921.

Municipalities Cannot be Libeled

Mayor William Hale Thompson of Chicago is known as a politician who is practical to the Nth degree. On Chicago he has a hold that will be hard to break. His machine dominates thru force and fear. But The Chicago Tribune, a newspaper of his own political faith, has arisen above partisan considerations and is telling the facts to the people of Chicago. Failing in an attempt to throw a cloud on the title to land occupied by the paper's building, he had the municipal corporation of Chicago sue The Tribune for $10,000,000 libel. This was to serve notice on other papers that they should say nothing or face similar suits. When suit was filed the Sunday Times commented on it as a proposition that struck at the last defense of the citizen against entrenched and predatory politicians and is glad now to note that the case has been thrown out of court by Judge Fisher, who held that a libel suit does not lie against a municipal corporation, being an infringement of the constitutional guaranty of free press.

After defining the fundamentals of libel, Judge Fisher held that "stripped of all elaborate argument, in the confusion of which the question for decision might look difficult, the fact remains that if this action is maintainable then public officials have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It is a weapon to be held over the head of every one who dares print or speak unfavorably of the men in power." This is worth every one's attention. If public officials could silence newspapers they could also take away the right of the individual to express an unfavorable opinion concerning them. Therefore, said Judge Fisher, "*this action is not in harmony with the genius, spirit and objects of our institutions. It does not belong in our day. It fits rather with the genius of the rulers who conceived law not in the purity of love for justice but in the lustful passion for undisturbed power.*"

There is a local application that should not be overlooked.

ATHENS (Ohio) *Messenger*, Oct. 24, 1921.

Popular rights and political efficiency are both upheld by the decision of a Chicago judge, throwing out of court the $10,000,000 suit brought against The Chicago Tribune by the mayor of the city. The action was inspired by criticism of the mayor. Though drastic, the court held that such criticism was a legitimate function of a free press—a verdict in which public opinion will probably concur, regardless of the character of the litigants themselves.

The need of freedom in printing news and commenting on it becomes greater as communities grow and public business, like all other business, becomes more complex. The newspaper is a sort of responsible middleman between the public and its officials representing the interest of the former while closely observing the latter, recording their acts and holding them to strict account. It is a great power which the newspaper wields, but there is little danger of its being abused more than momentarily. Its work is all public, and so the public itself is in position at all times to hold it to its duty, prospering it by support or destroying it by disapproval.

The press has become, therefore, a powerful though unofficial organ of government. Intelligent popular government would be impossible without it. Continuous progress in government is possible mainly because, while public servants come and go, the press is permanent, forever on the job of public service, translating public will into public action.

LIMA (Ohio) *Gazette*, Oct. 26, 1921.

Press Freedom

The suit for $10,000,000 damages brought against The Chicago Tribune by Mayor Thompson, of Chicago, has served a good purpose by pointing out once more, in an emphatic manner, the function and merits of the newspaper press in general.

The suit was dismissed by the court as an unwarranted attack on the freedom of the press. Because the Tribune criticized the mayor's conduct of the city affairs, the mayor, identifying himself with the "city" in a way not

uncommon among officeholders of long tenure, tried to put the Tribune out of business. Judge Fisher, in upholding the right of the defendant to publish its criticism, declared:

"The press has become the eyes and the ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public offices would be the rich reward for the unscrupulous demagogue."

This is the literal truth, as every thinking citizen doubtless agrees. The law and public opinion both recognize that, whatever may be the possibilities of the press abusing its great powers, they are far less than the dangers that would spring from the repression of honest comment.

COSHOCTON (Ohio) *Tribune*, Oct. 28, 1921.

The Press Must Be Free

Judge Fisher's decision in the $10,000,000 libel suit of the City of Chicago against The Chicago Tribune is a sweeping assertion of the right and duty of newspapers to keep the public fully informed of the conduct of the Government and of public officials and to criticize official and governmental acts which in its opinion are detrimental to the public welfare.

The judicial opinion is such a clear and comprehensive statement of the functions of a newspaper as the guardian of public interests and the instrument by which the public is kept informed of all things necessary to enlightened opinion and judgment on the conditions of society and governmental acts, that it ought to be universally read by the people. The Judge forcefully defines the right of the newspapers to publish all facts bearing upon the public welfare and to comment upon them for the purpose of informing and directing public opinion and thus unifying and crystallizing it for action against the bad and for the good.

The only conditions which govern the liberty of the press are the honesty and sincerity of its purpose and the conscientious and reasonable care exercised by the newspaper in ascertaining the truth and expressing its own opinion. The object must be the public welfare and never the injury of the public official whose conduct is subject to exposure and criticism or detraction of the administration whose acts are condemned. While the Judge's comments upon the functions of newspapers are highly interesting and instructive, a few paragraphs on the main point at issue show the scope of the decision:

> "Stripped of all the elaborate argument in the confusion of which the question for decision might look difficult, the fact remains that, if this action is maintainable, then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of everyone who dares to print or speak unfavorably of the men in power. * * *
>
> "The freedom of speech and the press was, at the very inception of our Government, regarded as indispensable to a free state. * * *
>
> "While good reason exists for denying a publisher the right to print that which he cannot prove against an individual, and recklessly to pry into his personal affairs, defaming his character and reputation, no reason exists for restraining the publication against a municipality or other governmental agency, of such facts, which, as Judge Taft puts it, it is well that the public should know, even, if it lies hidden from judicial investigation."

The Chicago suit differs from previous suits of this character in that it was brought in behalf of a municipality as a whole as representing the interest of citizens and not by a public official. The courts have sustained the rights of the press to publish facts bearing upon official conduct and to comment thereon with reason and sincerity and the decision establishes its right to criticise municipalities and all other governmental agencies whenever in its opinion the public welfare requires it.

Judge Fisher's able exposition of the functions of the press as a public guardian and his assertion of its freedom to publish facts and express opinions concerning governmental policies and conditions and official acts is peculiarly timely and valuable in view of the efforts during and since the war to muzzle and control the newspapers.

He points out the danger attending any attempt to gag or intimidate the press.

SPRINGFIELD (Ohio) *News*, Oct. 29, 1921.

The Right to Criticize

Immunity from criticism has never been a prerogative of public officials in this country, and any hope they may have been entertaining that the mayor of Chicago was going to secure it for them by muzzling Chicago papers has gone glimmering. Instead, a judicial decision has reaffirmed the principle that criticism is not only the privilege but the duty of the public press, and editors are accordingly rejoicing that another "Insolent attack on the constitutional freedom of the press," to quote the Philadelphia Bulletin (Ind. Rep.), has only succeeded, as the Kansas City Star (Ind.) observes, "in making that principle more secure."

"The first attempt on record of city governament to avenge itself upon a newspaper critic by a libel suit has failed completely," the Boston Herald (Ind. Rep.) reports, and the principles involved in the decision "are nation wide." The suit brought by Mayor Thompson in the name of the city, asking for ten million dollars damages against The Chicago Tribune and the Chicago News for "injury to the credit of the municipal corporation," was evidently intended, the Herald believes, "to silence criticism in the press and on the platform." A successful outcome of such an issue, involving a penalty "large enough to wreck any newspaper property," would make "anything like fair and frank criticism of a municipal administration impossible." But, as the Seattle Times (Ind.) notes the court "properly" held that such criticism "is within the rightful purview of the press" and that newspaper comment dealing with governmental conditions "could not be curtailed without abridging the freedom of speech of these publications."

The action which the Thompson administration, "enraged by the publication of too much truth," as the Duluth Herald (Ind.) puts it, brought against its critics was, indeed, in the opinion of the Columbia (S. C.) Record (Dem.) "one of the most vicious assaults upon

the freedom of the press ever launched in the United States," and in "hitting straight from the shoulder" in an unequivocal defense of that traditional American right, the Great Falls (Mont.) Leader (Rep.) thinks Judge Fisher, who wrote the decision, has earned the thanks of "every honest citizen and every honest newspaper of the United States." The principal defendant in the case also believes that "citizens throughout the country. . . . will realize that the decision is a noteworthy assertion of American constitutional right," even though "any comment by the Tribune may be discounted because of our selfish interest."

While "the effort to impair the right of the press to criticize public officials was a bold stroke," the Nashville Tennessean (Ind. Dem.) thinks "it is just as well that it was taken and made the subject of judicial determination." In every city, the Roanoke World News (Dem.) says, "the autocratic politicians in power would prefer to have the press muzzled," and they are "always ready and anxious to spring upon the press which dares to criticize." But, warns the Grand Rapids Press (Ind.) "if the Hylans and the Thompsons of the land ever succeed in such attempts against the newspapers of their cities we may as well hand over our political freedom to the dictator along with our principles of free-speech and free press." If men holding office could "make it possible for the press to criticize their official acts," the result, as the Hartford Times (Dem.) sees it, would be that "this country would not long remain free," for, as the Philadelphia Public Ledger (Ind.) says, "no matter how corrupt, how dangerous or sinister any official might be, he would be able to use the power of the municipality in hiding his crookedness and infirmities. With the taxpayers' money he could prosecute any taxpayer who publicly questioned his crookedness."

NEW YORK *Evening World*, Sept. 23, 1921.

Chicago Has One, Too

Newpapers and the public will watch with interest the libel action against The Chicago Tribune brought in the name of the City of Chicago by the Thompson element in the City Hall.

It is inconceivable that any court or jury would care to set the precedent for such a muzzling of the press, so great a restriction on the right of criticism of public affairs by alert newspapers.

Still, Mayor Hylan ought to watch this trial with interest. If it should happen that the courts punished the Tribune, the Mayor of New York would not need to make himself ridiculous by public proclamations against "hate-crazed" and "disloyal" newspaper publishers.

He could instruct his Corporation Counsel to sue and make them pay for their "mad fury."

NEW YORK *Editor and Publisher*, Sept. 24, 1921.

Newspapers Cannot Be Silenced

The newspapers of two cities, New York and Chicago, are far from being popular with their respective mayors. Mayor Hylan says the New York newspapers are "knockers" instead of "boosters," because they have been engaged in showing up the shortcomings of his administration. Mayor Thompson, of Chicago, is so worked up over the things that the Tribune and the Daily News of that city have been printing about its government and its officials that he has brought suit on behalf of the municipality against each of them, asking damages of $10,000,000 for the injury they have done to Chicago's credit and its officials.

Both of these mayors have reason to be upset over the revelations these newspapers have made public concerning the mismanagement, incompetency and wastefulness of their respective administrations. How much more comfortable they would feel if the newspapers kept silent about such matters, and confined their attention to pink teas, tiddle-de-wink matches and donkey parties!

Fortunately, the newspapers are not afraid to expose graft, crookedness and chicanery wherever they find it. All a public official need do to prevent them from publishing annoying charges against him is to discharge his duties as an honest and faithful servant of the municipality to the best of his ability. If he errs in judgment he may be criticised but his integrity will remain unimpeached.

Freedom of the press is one of the greatest safeguards of a republic. Men who hold public office know that their acts will be subjected to the scrutiny of the Argus-eyed newspapers. They may try to put something over on the public, thinking they won't be found out, but later they usually discover they are mistaken.

Libel suits, the withdrawal of advertising, and even threats of personal violence will not stop the newspapers from the performance of their duty to the public to which they owe allegiance and whose interests they are bound to protect if they are to maintain their position in the community.

NEW YORK *World*, Sept. 25, 1921.

Lese Majesty in Chicago

When President Roosevelt discovered in 1908 that The World had told more truth about the acquisition of the Panama Canal than was good for his reputation he ordered Attorney General Bonaparte to bring suit against The World for "a libel upon the United States Government." In very similar fashion Mayor Thompson of Chicago has brought a $10,000,000 libel suit against The Chicago Tribune in the name of the city—not for criticising Chicago but for criticising the Thompson Administration.

Lese majesty, which has disappeared from every monarchy of Europe, still survives in this proudest of democracies, at least in the imaginations of politicians elected to high office. Mayor Thompson appears to believe, as Theodore Roosevelt believed before him, that when information concerning an important official act is likely to injure the prestige of an office-holder it is a libel against the Government to print it. If incompetents

in office cannot be criticized because of the shaky dignity of the offices they hold, democracy is already a failure and may as well be given up at once.

The Tribune, it is said, embarrassed the City of Chicago financially by revealing certain conditions at an inopportune juncture. It is the business of democratic government so to conduct itself that it can stand the truth at any time. Evidently Mayor Thompson is convinced that he is Chicago and that Chicago is a municipal Kaiser.

NEW YORK *Fourth Estate*, Oct, 1, 1921.

Press Should Unite in Its Own Defense

Are newspapers to be penalized for printing the news? Is it a crime against the common weal to condemn practices in high places that are detrimental to the public?

The city of Chicago has sued The Chicago Tribune for confiscatory damages; the mayor of New York has issued a proclamation against New York papers generally, which, in spite of its ridiculous aspect, is serious because it is under his official seal; the Ku Klux threatens to sue the New York World and makes more dire threats against it and other papers of the country; an official of the Anti-saloon League accuses the newspapers in the larger cities of being parties to a conspiracy to discredit prohibition. These are of the number of similar attacks of recent history.

These constitute an attack on the freedom of the press that is as potential as vindictive.

If the newspapers of the country must refrain from publishing items of news because they affect the standing, political or otherwise, of certain individuals or organizations through fear of retaliatory measures, or if they must quietly pass by public acts that are inimical to public good, then there is no such thing as freedom of the press, and the principal province of newspapers of publishing all the news and defending communities or the country from apparent malfeasance in office is of the past.

Since the inception of this republic there has been a constant and victorious fight against constitutional or

legislative infringement upon the rights of the press. If this new sort of attack achieves momentum, energized by even partial success, the always present charge that newspapers are controlled will be true—destructively true.

If a person or an organization, from intrenchments of power, can with impunity call publishers to account for publishing the news about them, or establishing a just censorship of their acts, it will mark the beginning of the end of freedom.

Each individual publisher justly fights his own individual battle, but abstractly the concern of one is the concern of all. Newspapers should unite in the use of their most effective weapon against this iniquitous tendency—publicity, pitiless and complete.

NEW YORK *Newsdom*, Oct. 5, 1921.

The High Cost of Free Speech

The Libel Action by the City of Chicago Against The Chicago Tribune Raises This Important Issue.

The $10,000,000 libel suit of the City of Chicago against The Chicago Tribune has begun and its progress will undoubtedly be watched with keen interest by at least every publisher and politician in the country. On the opening day of the trial the attorneys for the newspaper moved to have the case dismissed, basing their arguments on the constitutional right of the freedom of the press, and pointing out that the suit vitally involves the question of whether a publication may be sued for libel to the extent of its total valuation, and hence virtually be put out of business if the suit is won.

It is a rare thing indeed for a newspaper so large as the Tribune to be sued for its total value. But small and struggling publications have often been thus annihilated by powerful persons or interests whom they had attacked. We recall an editor of a little paper in Pennsylvania who was ruined and sent to jail (since he could not pay the fines and damages imposed) after resolutely attacking the all-powerful Boies Penrose, U. S. Senator. The Chicago Tribune, a rich paper, feels for the first time the

doom that constantly threatens every outspoken small publisher, and at once raises the issue of free speech, freedom of the press and constitutional privilege.

The right to criticize any public official or act of government is surely a principal heritage of all citizens in a republic. It is a right fought for through many centuries and dearly won at the expense of entrenched authority, which has ever sought to spare itself the pains of public inquiry and the warm rays of the spotlight. But in these columns we have often pointed out that this very valuable commodity, freedom of the press, is today controlled by altogether too small a minority of the American public. The newspapers are incorporated stock companies, but almost invariably controlled by an individual, either owner or the representative of some group or family owning control of the publishing property. In short, in a nation of one hundred and ten millions this vital freedom of the press is vested in probably not more than two thousand principal publishers of the press, or approximately two-thousandths of one per cent. of the citizens of the republic bestowing their editorial freedom.

Now we have made a close study of the kinds and characters of American publishers today, and must regretfully report that few of this rare minority measures up to the highly specialized freedom and privilege they constitutionally enjoy. All citizens, of course, enjoy free speech, but free speech is a dwarf compared to freedom of the press. The average newspaper reader has no more chance of outtalking or influencing the press in its use or abuse of its freedom than he has power to employ his constitutional free speech in persuading Grant's Tomb to become a useful suspension bridge across the Hudson. The average newspaper publisher, like the reader, is just an individual, with private notions and plans and ambitions and greeds. He is one of a fortunate few who control great sources of public opinion. And as an individual he helps himself with such means as he has at hand, in this case powerful and extensive and safeguarded for him by the constitution of the republic where he fortunately thrives.

As we had occasion to set forth in a recent leading article, the press has overworked its particular kind of

political free speech until the time has come when newspaper opinion, for or against, is likely to result in a contrary verdict from the voters at the polls. But apart from the domain of politics, the newspapers of this country still possess enormous influence, great power for good which they too often neglect, and greater power for harm and evil—which some of them abuse with serious result to all concerned.

Returning to the case of The Chicago Tribune, it seems that city officials base their libel action on certain articles published which, they maintain, hurt the city's credit and impaired the market for municipal securities. This is a novel claim, and one which would certainly have appealed to Louis XIV. or George III. In short, the civic bosses of Chicago (who long ago earned the profound contempt of the American public everywhere) hit upon a new manner of defense by attack, and of protecting entrenched authority (monarchy, if you wish!) from the burning spotlight of public inquiry and criticism.

The law of libel is a strange and peculiar specimen of the lawmaker's expert blend of loopholes and fine or imprisonment. A really gifted mudslinger can damage the character or achievement of anyone with ease, and be immune to legal action. Whereas a straightforward and earnest exponent of truth and fact is liable to find that the cost of free speech can make the high cost of living seem like a bargain. For example, it is possible and convenient to declare in print that "we can not believe that Senator X. would lend himself to such a scandalous and criminal scheme." This ostensibly praises Senator X., but it firmly embeds in the dullest wits a conviction that everyone but the writer can and does believe Senator X. involved in a scandalous and criminal scheme. Senator X. takes a back-hand wallop from which no amount of acquittal can ever wholly revive him. But had the writer stated plainly that he thought Senator X. scandalous and criminal, even though citing a specific instance of the Senator's defective character, he would be inviting the Senator to go to law in the matter, and probably presenting the politician with a wealth of cleansing publicity, not to speak of possible damages.

In this way it is shown that the law of libel practically

defeats itself. Anyone deliberately setting out to injure another can do so in print with great subtlety and lasting effect. But an independent editor or publisher who is straightforward in thought, method and intention may render himself liable, be ruined by costly trials or excessive damages, be put in jail, be silenced by the very persons or interests he bravely endeavored to expose.

Henry Ford went into court with The Chicago Tribune, with a result on which many still reflect with glee. The Tribune does not appear to be a particularly libelous sheet, yet it seems to get on the nerves of those whose damage-dreams run into millions. We hardly expect to see the powerful Tribune put out of business by the damages it will have to pay in this case, or any other case involving Boss Thompson and his gang. The American people fought for freedom of speech, won it by sacrifice and retain it by vigilance. The newspapers, great or small, must bear this in mind, and serve loyally those who bestow this great privilege upon them, bestow it simply because newspapers are supposed to be the voice of the people—and that voice and that only by democratic right must be free.

NEW YORK *Evening Post*, Oct. 17, 1921.

No Crime to Criticize Officials

Dismissal of the libel suit for $10,000,000 brought by Mayor Thompson and other officials in the name of the city of Chicago against The Chicago Tribune rebukes as impudent an attempt as has ever been made to silence criticism of public officials in this country. If Mayor Thompson felt himself wronged by the comment of Chicago newspapers upon his administration of affairs, why did he not bring suit in his own name? Judge Fisher was severe upon the point. "The honest official," he said, "seldom fears criticism. He answers argument by argument and only in extreme cases resorts to law. The dishonest official is often restrained by the fear of laying his character open to a searching judicial inquiry. But if he can hide his own infirmities by labelling his action in the name of a municipality, the number of suits would be governed only by political expediency."

It is not always easy for public officials even outside of Chicago to realize that the remedy for newspaper criticism of their actions is not suppression of the offending newspapers but suppression of their own ill-judged policies.

NEW YORK *World*, Oct. 17, 1921.

A Free Press Again Upheld

With a seemly promptitude, Judge Harry M. Fisher of the Circuit Court has sustained The Chicago Tribune's demurrer to Mayor Thompson's $10,000,000 libel suit, brought ostensibly on behalf of the City of Chicago.

In rendering his decision and in giving notice that an amended declaration will be of no avail, Judge Fisher makes it properly plain that what he upholds is not the case of the single newspaper involved but the constitutional freedom of the press and the right of the people to be keenly and broadly informed concerning their own affairs and interests. "The press," says the bench, "has become the eyes and ears of the world." Further—

> "It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue."

This is a just tribute to the responsible newspaper press. It is a judicial recognition of the need, voiced by indirection in the basic law of the state, of serious, intelligent criticism of the system, purposes, instruments and faults of government.

Commenting in a previous editorial upon Mayor Thompson's suit, The World referred to the action for libel brought against itself in 1908 over the Panama Canal Zone seizure by President Roosevelt for the United States Government. The principles of law as a bulwark of free discussion which prevailed in the greater case are satisfactorily upheld in the lesser. We should fancy that there might now be recorded a definite, permanent check upon the attempted industry of establishing a doctrine

of "lese majesty" under the standard of American democracy.

NEW YORK *Evening World*, Oct. 17, 1921.

To the Higher Court

Virtually dismissing a politically inspired libel suit brought against The Chicago Tribune by Mayor Thompson and his political associates acting in the name of the City of Chicago, Judge Fisher has reaffirmed and given new standing to one of the cardinal principles of modern democracy, the right and privilege of free criticism of public policy in the public press.

It is true this right and privilege may be abused at times, but the penalty for such abuse ought not to be administered through the legalistic mazes of court procedure. If democracy is to endure, the penalty must be inflicted by public opinion.

If a newspaper is unfair in its criticisms of public policy, time will reveal the errors. The public must train itself to remember and balance the accounts for or against the newspaper.

If a newspaper is generally right, it deserves public confidence. If it is usually wrong and misleads the public, then it will lose the confidence and support of its readers. That is the supreme penalty which may be inflicted on a newspaper.

Courts cannot settle such questions. The final verdict may not rest on any single issue, true or false. Not twelve men but all the readers of a newspaper must bring in the verdict. The jury is always "out."

While the issue is being decided the newspaper must be free to devote its energies to newspaper making, not to defending itself against the politically inspired legalism of politicians who happen to control in City, State or Nation.

Between The Chicago Tribune and Mayor Thompson time and the citizens of Chicago must judge. This may be hard for Mayor Thompson, but it is a price he must pay for living in a Nation which aspires to democratic government.

NEW YORK *Times*, Oct. 17, 1921.

Proper Newspaper Criticism

In throwing out of court the ridiculous suit for $10,000,000 damages brought by the City of Chicago against The Chicago Tribune, Judge Fisher reaffirmed some fundamental and wholesome principles. The press is far from being unbridled. Laws exist to punish it for sedition, indecency, or personal defamation. But public policy and judicial decisions have long permitted and even encouraged the freest criticism of men in office. Judge Fisher well said that, if newspapers were to be deprived of that liberty, a new weapon would be placed in the hands of unscrupulous officials.

Every one understands that it was not really the "City" of Chicago that sought to mulct or silence the Tribune, but Mayor Thompson. He but makes a new use of the phrase, "l'etat, c'est moi." It was the Mayor that the Chicago newspapers attacked, and the Mayor purely in his public capacity; the man at the head of a municipal administration which was bringing disrepute and peril upon Chicago. Possibly the Tribune went too far in asserting that Chicago had been made "bankrupt" by the Thompson regime, but that was only a rhetorical exaggeration of the admitted truth. And on the main allegations made in the suit the Court emphatically, and in line with many precedents, held that there was "no cause of action." Thus a peculiarly impudent attempt to limit the freedom and usefulness of the press has had the stamp of deserved judicial disapproval placed upon it.

NEW YORK *Sun*, Oct. 18, 1921.

Lese Chicago

A wide interest attaches to the ruling of a Chicago judge that officials of that city have no cause for a libel suit against The Chicago Tribune based on the assertion that the defendant had uttered hurtful things about the city's financial condition. New York, since the question of the city's pocketbook is particularly prominent here too at this moment, looks on the Chicago suit and its out-

come with especial interest. It welcomes a judicial ruling that should protect the public right to discuss public affairs.

Often have officeholders objected to press criticism, as did the Mayor of Chicago. The Non-partisan League administration in North Dakota has complained that the newspapers misrepresented the State's finances and so injured its credit, a charge identical with the one that Mayor Thompson made in Chicago.

The public must have accurate information about its affairs and must guard against misrepresentation. The best guaranty for this we have been able to develop is free criticism of government. If criticism were restricted we should find it much more difficult to arrive at the truth. As the Court pointed out, to allow officials to sue upon spoken or printed assertions would be to give them a weapon that could be used against any opponent or critic of those in power.

The dangers in freedom of discussion of public questions, the opportunities for misrepresentation, have not been considered by democratic communities as comparable to the dangers involved in any official or judicial restriction of this right.

NEW YORK *World*, Oct. 18, 1921.

In rendering his decision and in giving notice that an amended declaration will be of no avail, Judge Fisher makes it properly plain that what he upholds is not the case of the single newspaper involved but the constitutional freedom of the press and the right of the people to be keenly and broadly informed concerning their own affairs and interests. "The press," says the bench, "has become the eyes and ears of the world."

NEW YORK *Editor and Publisher*, Oct. 22, 1921.

Free Press and the Law

Freedom of the press has been an important factor in the activities of two departments of government during the past few days. The Chicago Tribune successfully defended the principle, as well as its own existence, in the Circuit Court of Illinois, in the suit filed by the

City of Chicago to collect $10,000,000 damages based on the Tribune's criticism of the city administration's methods of government and finance. So much for the judiciary.

In the U. S. Senate, however, there now reposes a bill, railroaded through the House, which would punish by fine and exclusion from the mails any newspaper which published the news of any event on which the public had placed wagers, or quoted the odds at which such wagers were made. The latter bill and the action of the City of Chicago had the same fundamental intent—the placing of statutory limitation on what may be printed in the public press.

Judge Fisher in dismissing the suit against the Tribune, said: "The action is not in harmony with the genius, spirit and objects of our institutions. The freedom of speech and of the press was at the very inception of our government regarded as indispensable to a free state. There is need of so much knowledge in our complicated social order that unless we were advised by those who are expert in collecting information and disseminating it, we would be helpless.

"The press has become the eyes and the ears of the world, and, to a great extent, humanity in all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of unscrupulous demagogues.

"The Court has no more sympathy with newspapers indulging in scandal and defamation than have the most bitter assailants of the press. But the remedy is not to be found in new law suppressing publication."

The court said that if the present suit could be maintained "then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be used over the head of every one who dared print or speak unfavorably of the men in power."

No comment is necessary on this clear statement of

the rights of the press as they were affected in the Chicago case, but it can well be studied by those who seek to insure by statute the moral integrity of the nation.

NEW YORK *Fourth Estate*, Oct. 22, 1921.

Freedom of the Press Still Lives

Among many recent cases of individuals or corporations trying ineffectually to recover from newspapers for alleged damage caused by an endeavor to protect the common good, or for publication of news items affecting them, that of The Chicago Tribune is pre-eminent because of the peculiar features of the case.

Here was a strongly intrenched political machine charged with dissipating the public funds by a newspaper, in its undoubted province of watching and conserving the rights of the public, in an attitude that had many indications of revengeful spite.

In sustaining the demurrer and dismissing the suit the judge gave utterance to an axiomatic truth when he said that harm would certainly result to a community from an officialdom unrestrained by fear of publicity.

During the war the newspapers of the country were a unit in supporting the propaganda of Americanism. Propaganda may have become a habit with some of them and reached into other fields without warrant. For such cases there is a remedy, but that is entirely a different matter from restraining rightful expression of opinion.

The freedom of the press is so important a fundamental of democracy that it was written in one of the greatest safeguards of liberty—the Constitution of the United States.

It is a matter of felicitation, not only among newspapers but among all citizens of the country, that efforts so far to undermine the right of free speech have been fruitless.

Without an absolutely free press, free to record news in an impartial manner, and free to safeguard every interest of community and country, to fearlessly uphold the powerless against the powerful, with the power to collate and give united force to public opinion, all the

works of the founders and preservers of the Nation would go for naught.

Especially must the press be safeguarded against the encroachment of political organizations, which, primarily, are promoted by selfish interests.

Both the press and those who would restrict its province must finally stand at the bar of public opinion—the supreme court of their actions.

The press is unafraid!

NEW YORK *Literary Digest*, Oct. 29, 1921.

The Right to Critizise Chicago

Back in 1735 an old printer named John Peter Zenger so irritated the Colonial rulers of New York by attacks in his Weekly Journal that it was solemnly resolved in Council that certain of the Zenger writings should be publicly burnt by the common hangman and that the publisher himself should be charged with libel. The subsequent jury verdict of "not guilty" has been called "the morning star of that liberty which subsequently revolutionized America." No copies of the Chicago Tribune have been burnt in Grant Park, but the Tribune and The Daily News have been sued for libel by the city government on the ground that their criticisms of the municipal administration and their charges of "insolvency" were hurting the city's credit to the extent of $10,000,000. Judge Harry M. Fisher's decision that the city has no cause of action against the Tribune is greeted by the press with phrases recalling the historian's verdict in the case of old Zenger. "Free Government Upheld in Chicago," "The Freedom of the Press Vindicated," "No Crime to Criticize Officials," "A Victory for Free Speech," "Freedom of the Press," are sample headlines. The suit, according to the New York Evening Post, "was as impudent an attempt as has ever been made to silence criticism of public officials in this country." "Another insolent attack on the constitutional freedom of the press" has now been decisively repelled, says the Philadelphia *Bulletin*.

In Chicago, The Evening Post finds Judge Fisher's decision "a healthy thing for municipal government," upon

which "the people of Chicago together with newspapers everywhere are to be congratulated." The Chicago Tribune itself, while remarking that any comment of its own might be discounted because of selfish interest, believes that Americans throughout the country "will realize that the decision is a noteworthy assertion of American constitutional right." If such a suit, it says, were to be sustained in law, "all criticism of public administration would rest under the paralyzing threat of exhausting or completely destructive attack by politicians in power," and "no more fatal assault upon the liberties of the individual could be devised." For the most part the Tribune contents itself with summarizing the Judge's decision, which goes deeply into the principles involved. Before the court hearings were held the Tribune announced to its readers that "to coerce or destroy the Tribune was the immediate purpose of this suit, the intimidation of all newspapers and prevention of free speech the second objective; and, as the Tribune has evidence to prove, the overturning of the republican form of government was its ultimate goal."

It appears from Judge Fisher's decision that the city government of Chicago took exception to a number of Tribune articles in the Small campaign, particularly to one referring to the city as "broke," "bankrupt" and "insolvent"; complaining that they gave the impression "that the management of the administrative and governmental affairs of plaintiff were conducted in a corrupt and incompetent manner," and finally that "said grievances" damaged the city in its "good name, reputation and financial credit" to the extent of $10,000,000. Judge Fisher holds that the right to free expression of opinion is only limited by restraints against blasphemy, immorality, sedition and defamation. But defamation or libel "is that class of prohibited publication which affects only private persons," and can not hold against municipalities. They "have no character or reputation to defend. They exist to conserve order and advance the public good." As regards the position of the press, the Judge said in part, as reported in the Chicago papers:

> "It is not only a great privilege but, to my mind, a positive moral duty of those who have the facility to keep a watchful eye and to give generous expression on all public

matters, the knowledge of which few citizens could obtain even when personally seeking it.

"Fortunately, while the good the press is capable of rendering, if unafraid, is without limit, the harm it can do has its own limitations. It cannot long indulge in falsehood without suffering the loss of that confidence from which alone comes its power, its prestige and its reward.

"On the other hand, the harm which certainly would result to the community from an officialdom unrestrained by fear of publicity is incalculable.

"The honest official seldom fears criticism."

"This action," said Judge Fisher, in summing up his reasons for giving judgment for the defendant, "is not in harmony with the genius, spirit and objects of our institutions. It does not belong to our day. It fits in rather with the genius of the rulers who conceived law not in the purity of love for justice, but in the lustful passion for undisturbed power."

It is not surprising that a judicial decision which eulogizes the press while emphasizing its privileges should receive apparently unanimous editorial approval. A wire to Mayor Thompson failed to draw a word from him to help us state his side of the case. It is perhaps fair to assume that Corporation Counsel Ettelson spoke for the entire city administration when he told a Chicago Tribune reporter: "We have decided to make no comment except to say that we think Judge Fisher's decision is wrong."

BROOKLYN (N. Y.) *Eagle*, Oct. 16, 1921.

An Absurd Suit Dismissed

Of all the libel suits ever brought against newspapers in this country the most absurd in origin and purpose was that started by Mayor Thompson of Chicago against the Tribune of that city. The Tribune had assailed the Thompson administration, declaring that it was ruining Chicago, and Thompson caused suit to be brought against it on the ground that its charges had injured the city's financial credit to the extent of $10,000,000. Throwing the suit out of court Judge Fisher characterized it as "not in harmony with the genius, spirit or object of our institutions." And to this he added: "It does not belong to our day, but rather to the day

when monarchs promulgated laws with the purpose of carrying out their lustful passion for undisturbed power."

It is worth recalling that when newspaper attacks were directed against the Government of New York City as it was under the control of William M. Tweed and his associate thieves precisely the same reply was made from official circles. The credit of the city and its reputation abroad were being hurt by newspaper criticism. We have heard that cry revived in behalf of the present New York City Government. But Mayor Hylan, though he has urged business men to withdraw advertising from what he calls "the hate-crazed press," has never progressed so far in stupid retaliation against his critics as did Mayor Thompson. The latter occupies a lonely and unenviable eminence. The court has stuck him in a pillory from which he will not soon escape.

BUFFALO (N. Y.) *Express*, Oct. 17, 1921.

It was a peculiar city government which imagined that the city of Chicago could maintain a successful libel suit against The Chicago Tribune. The attempt was of much the same character as the effort to assert the principle in behalf of Governor Small that the king can do no wrong. The court's decision against the city must have been expected even by the lawyers whom the city employed.

BUFFALO (N. Y.) *Courier*, Oct. 17, 1921.

In throwing out of court the suit for $10,000,000 which the city of Chicago had brought against The Chicago Tribune for alleged libel by the Tribune in publishing statements that the city was bankrupt, the court said: "This suit is not in harmony with the genius, spirit or objects of our institutions."

BUFFALO (N. Y.) *Times*, Oct. 18, 1921.

Chicago Would Have Lost if It Had Been Winner

Every city, Chicago included, is to be congratulated that the $10,000,000 libel suit of the City of Chicago against The Chicago Tribune, was thrown out of court.

A great principle was at stake here.

If it were once established that a municipality could maintain an action in damages against a newspaper for criticizing a municipal administration, cities would be compelled to run the risk of being deprived of that great safeguard—an outspoken newspaper press.

Chicago would have been the loser if it had been the winner of this suit, brought in Chicago's name but in opposition to its welfare.

AUBURN (N. Y.) *Citizen*, Oct. 18, 1921.

A Free Press

Some time ago, following an election in Chicago, the mayor of that city brought an action against The Chicago Tribune, charging libel, to the extent of $10,000,000 damage done to the city. The action was the result of an attack on Mayor Thompson, charging incompetence and showing how the city had suffered under his direction.

In reply to it, The Chicago Tribune entered a demurrer. This means the paper admitted the truth of the matter, but held that it was insufficient in law to sustain the claim. The case has now ended with the judge upholding the Tribune's demurrer. It is a victory for a free press in this country.

The laws of libel as concern newspapers are very broad, and in many ways the papers are cramped in their duties to the public by the limitations imposed. But in a political campaign, the limit is raised, and newspapers are more free to say what they think of individuals and what they advise in policy in a manner not customary in ordinary times. Besides, public men are open to attack which in the case of private citizens might constitute libel. It should not be otherwise.

> "The press," says the decision, "has become the eyes and ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue."

A free press is perhaps the most important institution in any country. The truth in all matters must be made known, and where censorship exists, truth is suppressed. Too strict construction of the libel laws, especially where public men are concerned, is similar in effect to censorship. If a newspaper is not free to express its opinions within the bounds of decency, the most fundamental of our liberties are in danger.

UTICA (N. Y.) *News*, Oct. 19, 1921.

In newspaper circles attention has been called to the libel suit for $10,000,000 brought against The Chicago Tribune by the municipal authorities of that city. The newspaper had criticized the administration, pointed out where it had wasted the public funds and brought accusations right and left which it claimed to be supported by facts and figures cited. The Thompson administration claimed that they and the municipality had been damaged thereby, but when the case was brought into court, Judge Fisher dismissed it, standing by the principle that officeholders are and ought to be subjected to the publication of whatever disclosures the case warrants, and that the effort to do so on the part of the newspapers is commendable and one of the best protections and safeguards the people have.

BUFFALO (N. Y.) *Times*, Oct. 21, 1921.

"A Daniel Come to Judgment"

IN THESE DAYS THIS IS NOT ONLY THE PLEASANTEST KIND OF NEWS, BUT IT IS ALSO VERY RARE IN THE DESPATCHES

The City of Chicago some time ago instituted a very novel suit against two newspapers for criticising the municipal government as to its financial methods, and, as charged in the complaint, for injuring the credit of the City so that it could not sell its bonds. The case recently came to trial, and the Federal Judge sustained the demurrer entered by one of the defendants claiming no cause of action. In the hurry and rush of American

life, this decision will probably pass unheeded by the vast majority of our citizens; but it upholds one of the fundamental rights underlying all genuinely free government. The soul of the opinion is set forth in the following words of the Judge, that,—

> "The harm which would certainly result to a community from an officialdom unrestrained by fear of publicity is incalculable."

He further stated that,

> "At the very inception of this Government liberty of speech and of the press was regarded as indispensable to a free state,"

adding, that those who attempted to check the passion for it have been branded by history as barbarians and tyrants.

No more interesting, or more strenuous, or more important chapters of Anglo-Saxon progress exist than the history of the struggle for free press, free speech and the corollary of both, the right of peaceable assemblage. On these three rights rests the whole structure of modern civilization, and of liberty, present and to come. It is glad news, therefore, that a Federal Judge not only knows this history, but has the courage authoritatively to declare it, and the lucid language with which to clothe it with a new vitality.

"Bureaucracy" in this country, the crystallization of departmental machinery, the petrification (first cousin to putrefaction) of precedents have grown to be formidable agencies for the delaying, the denial, and in fact the obliteration of justice, which evils can be successfully fought only by a free press, by free speech and free assemblage. One by one the Federal Judges are becoming aware that there are still in this Republic sovereign citizens who remember Magna Charta and the Bill of Rights.

NEWARK (N. J.) *Star*, Sept. 27, 1921.

Freedom of the Press in Chicago Libel Action

Because it is said to be entirely without precedent in the United States, vast interest will attach to the suit of the city of Chicago for $10,000,000 against The Chicago Tribune for libel. Its importance can scarcely be exag-

gerated, because involved in it is the question of what does and what does not constitute that freedom of the press which is guaranteed by the very first amendment to the Federal Constitution and by the constitutions of most, if not all, of the states.

Does the liability of a newspaper for its criticisms, which is recognized in the case of individuals, extend to incorporated municipalities? That is the question at issue, involved with another, which is how, if at all, it is possible to measure the intangible and determine to what extent the criticism of a city's finances in a particular journal has injured its credit, and, that being determined, how that loss of credit is calculable in dollars and cents.

The basis of the suit, brought in the city's name, is not that responsible officials, who would have recourse in individual suits for libel, were attacked, but that the integrity of the city as a solvent and going concern, under the methods being pursued, was assailed. Now if a free press can be restrained, in principle, from criticizing what it considers to be faulty financing, and can be kept from open condemnation of practices it believes to be ruinous, does it not follow that the whole body of expressed journalistic opinion is at stake?

Would the musical critic be safe in saying that the soprano was not in her best voice, or the dramatic critic in pointing out the weak structure of a play or the faultiness of acting? These are not reflections upon personal character, but upon the merit of performance, and in a sense fall in the same category as the Chicago paper's excoriation of municipal finance. If the conduct of the people's business is not subject to review and criticism by the responsible organs to which they look for enlightenment, what protection have they against intrenched authorities perpetuating themselves in office by bestowing what appear to be present benefits while piling up an inheritance of knotty difficulties for the future to solve?

It is notable that it is the Thompsons and the Hylans and the Gillens of politics that are most vociferous in their onslaughts upon the newspapers, interpreting criticism of official conduct as attacks upon themselves as individuals, and ascribing to the comment an animus it does not possess. It is unthinkable that the sort of ideas they cherish can prevail against that freedom that

is the constitutional guaranty of the press, not for its own sake, but only in order that a whole people may be informed of the truth.

ASBURY PARK (N. J.) *Press*, Oct. 3, 1921.

Blow at Free Press

The city of Chicago is trying out a novel experiment. It is suing The Chicago Tribune for ten million dollars on the ground that it was libeled by that publication. The city holds that the Tribune's attacks were untrue, that they tended to impair confidence and undermine credit and as a result had a disastrous effect upon the municipality's plans to borrow money.

The point raised is an interesting one. A corporation has redress in law if it is attacked. There was a time when a corporation could not sue for libel. Corporation lawyers had a bill passed in most states that gave the corporation the libel status of the individual. The result is that the city of Chicago comes into court.

If the city of Chicago were to win its suit, the entire plant of The Chicago Tribune would be wiped out. Moreover, if the city were to win its suit, no newspaper would dare criticize the financial management of any of our municipalities. The suit, the Tribune says, represents an attempt to throttle the press. And so it is. The case is one that will be watched with unusual interest.

CAMDEN (N. J.) *Post-Telegram*, Oct. 17, 1921.

A Victory for a Free Press

It was a new and novel proposition in American jurisprudence that a newspaper could be sued by a municipality for libel. The City of Chicago, by its mayor, brought an action for libel against The Chicago Tribune, claiming $10,000,000 damages. In sustaining the demurrer entered by the Tribune Judge Fisher said that if the suit could be maintained "then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be held over the head

of every one who dared to print or speak unfavorably of the men in power."

Municipal abuses cannot be corrected unless the community is fully informed as to maladministration and it looks to the local press to supply this information. The newspaper performs a public function in exposing municipal delinquencies.

Public officials if libeled may sue and get damages, the same as the private citizen. But if they could command the vast power and unlimited resources of the municipality to punish or suppress the newspaper that had the temerity to criticize their official actions, corruption would have full sway in our cities, with gang rule and terrorism making property and life unsafe.

As Judge Fisher says: "The freedom of speech and of the press was, at the very inception of our government, regarded as indispensable to a free State." In these latter days the enlarged corrupting power of wealth, the growth of our cities and the development of political machine methods to dominate municipal administration put upon the press a tremendous responsibility to serve the people by exposing weakness, venality and lawlessness in public affairs. To the credit of the press, be it said, it performs its public duty fearlessly and honestly.

To suppress criticism, as Mayor Thompson attempted to do, would be to foster all the vicious and evil features of corrupt administration, and subvert the genius, spirit and objects of our institutions.

PATERSON (N. J.) *Press-Guardian*, Oct. 22, 1921.

Free Press Upheld

When he brought a $10,000,000 libel suit against The Chicago Tribune in the name of the city of Chicago, because of criticisms of his administration, Mayor Thompson must have known that he had little chance of success. Free criticism of public officials or their administrations has been a popular institution of this country from the outset as well as one of its most important safeguards. Journalistic freedom has been and is sometimes abused, but, as Thomas Jefferson once wisely said, even that is "a part of the price we pay for our liberty, which can not

be guarded but by the freedom of the press, nor that be limited without danger of losing it."

Jefferson made this memorable statement in 1786. Fifty years later De Tocqueville, the visiting French writer, noted that no American had "as yet dared to propose any restriction on the liberty of the press." Now, 135 years later, the same may be said—unless we except Mayor Thompson's libel suit and its transparent aim.

That The Chicago Tribune's demurrer to the Thompson libel suit would be sustained by Judge Fisher of the Circuit Court could almost have been regarded as a foregone conclusion. Judge Fisher upholds not only the Tribune but a free press in general and the right of the people to be fully informed concerning their own affairs and interests.

"The Press," he says, "has become the eyes and ears of the world," and further: "It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed, and public office would be the rich reward of the unscrupulous demagogue."

In this decision the Thompsons of every section are duly warned that they can never reverse popular sentiment in this connection, based as it is on the command of the Constitution itself: "Congress shall make no law abridging the freedom of speech or of the press."

MILLVILLE (N. J.) *Republican*, Nov. 5, 1921.

Rights of the Press

As some people connected with the Millville city government appear to be obsessed with the idea that the only function of a newspaper is to pleasantly pat officials on the back, and that when it criticizes and shows up their failures it is a plague, it is not out of place to quote from the decision of Judge Harry Fisher, of Chicago, in which he threw out of court the $10,000,000 suit brought in the name of the city of Chicago against the Tribune

of that city. The newspaper had been very severe in its strictures on the rotten city government of Boss Thompson. It asserted that in reality, through profligacy, the city was bankrupt. Thompson set up the claim that the Tribune's articles had injured the credit of the city and brought suit to recover $10,000,000. In reality the suit was instituted by Thompson for personal revenge. In his decision Judge Fisher among other things said:

> "The freedom of speech and of the press was, at the very inception of our government, regarded as indispensable to a free State. Those who attempted to check the passion for it were branded by history as barbarians and tyrants.
>
> "The harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

Judge Fisher, in an answer to the contention of the city that the same restraints that prevent libel of public officials should operate to protect municipalities, held that, while a newspaper might not recklessly pry into the personal affairs of officials, no reason exists for restraining publication against a government agency of such facts as it is well for the public to know.

Judge Fisher extolled the part which newspapers play in modern industrial and social development and in times of national stress.

LANCASTER (Pa.) *Examiner*, Sept. 23, 1921.

Freedom of the Press

The Chicago Tribune, one of the leading newspapers of the Middle West, is fighting for its life. It is the defendant in a ten million dollar libel suit brought by the city of Chicago.

Chicago's municipal government at the present time is under the control of the Thompson machine. In the campaign last fall the Tribune fought it most vigorously, and criticized officials from the mayor down without mercy. The Thompson men contend that the news articles and editorial expressions damaged the city's credit, and have sued for the total amount of the newspaper's property. If it should lose, it would have to discontinue publication.

Certainly a victory by the city would be a most unfortunate precedent. The freedom of the press must not be impaired. The Tribune did not libel individuals; it did not assault our system of government; it merely attacked the manner in which certain individuals were conducting the government, and was, we believe, within its rights in so doing.

Suppose the Wilson Administration had entered suit against every Republican paper that criticized it for mismanagement. The courts would have been too busy with the many cases involved to consider any other litigation for many months.

PHILADELPHIA (Pa.) *Evening Public Ledger*, Sept. 23, 1921.

"Whom the Gods Destroy"—

It is interesting to observe that in New York and in Chicago frenzied attacks have just been directed at great newspapers by powerful politicians temporarily in possession of public offices. New York and Chicago are gang-ridden.

Mayor Hylan, in one of the most astonishing proclamations ever issued by a public official in the United States, calls upon all "merchants, business men and shopkeepers" to visit reprisals on newspapers that have been criticizing his Administration.

The outburst seems to have been prompted by editorial criticism of police officials who sent mounted squads Cossack-fashion to ride down a crowd of unemployed folk.

In Chicago the Tribune has been taken into court to fight a $10,000,000 suit for libel instituted by "the City of Chicago." The "City of Chicago" in this case is the political tong whose offenses the Tribune exposed.

Newspapers cannot make a bad politician good. But they can worry and keep him on edge.

Silence or censor them for a day and every loot-hungry political thug would feel that he had drifted by accident into Heaven.

PHILADELPHIA (Pa.) *Record*, Sept. 24, 1921.

The Chicago Tribune is not without justification in claiming that the suit of the city against it for $10,000,000

is an effort to intimidate the press. Of course, if the Tribune's statements about the city's finances were untrue it deserves some penalty, and if they were malicious the penalty might be severe. But American cities are notoriously badly governed, and the only protection the public has lies in vigilant criticisms by the newspapers. A suit for $10,000,000 looks like intimidation, and it will be a great time for crooked bosses if the newspapers can be scared out of handling municipal politicians without gloves.

PHILADELPHIA (Pa.) *Evening Public Ledger*, Sept. 24, 1921.

The Muzzle

To fully understand the line of reasoning followed by the politicians who, as temporary occupants of important public offices, have sued The Chicago Tribune for $10,000,000 damages because of that newspaper's criticism of their official acts, it is necessary to follow it to the logical conclusion.

The suit is being pressed in the name of the City of Chicago, which, in the complaint against the Tribune, is alleged to have suffered material losses because of the attacks made upon public administrators. The Tribune is not charged with telling any untruth. Therefore it appears to be the feeling of the complainants that evil or error in public affairs matters not at all. Do any wild or foolish or criminal thing and fear not; but talk about these things, draw public attention to them, and you are a criminal!

Members of Congress, Judges in the courts and ministers in their pulpits ought to be interested in this view as it is expressed by a representative group of office-holders in Chicago. If it were to be accepted or supported by a court decision or a jury's verdict—and there is no danger that it will be—a Senator or Representative of one party might be haled to court for public criticism of his opponents on the floor, and the courts themselves might be assailed for giving a man a bad reputation by declaring him guilty of a crime.

Ministers of religion would be required to believe that sin doesn't matter so long as you do not talk about it or

seem to be aware of its existence. They might be called upon to pay heavy damages to the communities in which they labor for merely intimating that all the folk who compose their various congregations are not pure in spirit and utterly blameless in their daily lives.

The movement for a muzzled press was supposed to have ended with the departure of Palmer and Burleson from public office. But it has been revived suddenly in Chicago. It will have a short life this time. The suit against the Tribune is as silly as it is vicious.

PHILADELPHIA (Pa.) *Record*, Sept. 27, 1921.

If Mayor Thompson can show that the City of Chicago has suffered $10,000,000 damage through the criticism of his administration by the Tribune of that city, how much could Tom Smith have collected if he could have mulcted the newspapers of Philadelphia for their caustic remarks on his regime here? At least $20,000,000, we should say. And there would seem to be just as much justification for such a procedure in this city as there appears to be for "Big Bill's" effort to penalize the too independent Tribune for its antagonism to his methods in Chicago. Honest criticism is not to be dodged in this fashion by political bosses.

PHILADELPHIA (Pa.) *Evening Public Ledger*, Oct. 17, 1921.

Criticism Is Not Criminal

The right of newspapers to criticize the city administration is sustained by Judge Fisher, of Chicago, who has dismissed the suit for $10,000,000 damages brought by the City of Chicago against The Chicago Tribune for injuries alleged to have been caused by the Tribune's criticism of the financial condition of the city.

It was charged that the Tribune's criticisms injured the public credit. The motive for the suit was political. The action was an attempt to silence the critics of the present Administration. It was thus thought that criticism could be silenced by haling the critics into court and demanding heavy damages from them.

The custom of free speech in the discussion of public

affairs is of too long standing for it to be suddenly stopped as the Chicago politicians tried to stop it.

The Court has interpreted the law in accordance with the spirit of American institutions. While its decision is of peculiar interest to newspapers, it is of vital importance to the whole people. The newspapers regard themselves as commissioned to safeguard the public interests and to expose everything which threatens those interests. The people look to them for information about what is happening in government and for instruction as to the significance of it. If they are to perform their proper functions they must be free to say when a public official has been unfaithful to his trust and to point out how he has violated it and what the effects of that violation are. The Chicago Judge has sustained their right to do those things.

PHILADELPHIA (Pa.) *Public Ledger*, Oct 17, 1921.

Press Freedom Upheld

The City of Chicago, or rather that part of it represented by Mayor Thompson and "Thompsonism," has lost its suit against The Chicago Tribune. It was the contention of the city's attorneys that the Tribune and the Chicago Daily News had "libeled" Chicago in printing criticisms of the corporate acts of the municipality. Damages in the sum of $10,000,000 were asked.

On the face of it the suit was brought to stop the mouths of Chicago newspapers in the future and to punish them for what they had done to the thing called "Thompsonism" in the past. In sustaining the demurrer filed by the Tribune, Judge Fisher pointed out that if the city's action was held maintainable,

> "* * * then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of every one who dares print or speak unfavorably of the men in power."

So ends a dangerous and insolent attempt by one of the most arrogant of political "machines" to maintain itself in power and to outlaw, crush and silence all possible effective criticism of itself and its acts. The ruling made was the expected ruling. Upholding the conten-

tions of the city would have meant that no matter how corrupt, how dangerous or sinister any official might be, he would be able to use the powers of the municipality in hiding his crookedness and infirmities. With the taxpayers' money he could prosecute any taxpayer who publicly questioned his crookedness.

To accept any such doctrine would be to prepare the way for a period of municipal corruption and debauchery that would smell to heaven. Extended to State and national Government, it would mean the end of popular government and a quick drift to self-perpetuating autocracies built on a lust for undisturbed and unending power.

PHILADELPHIA (Pa.) *Bulletin*, Oct. 18, 1921.

Press Freedom Vindicated

Another insolent attack on the constitutional freedom of the press is decisively repelled in the practical dismissal of the libel suit for $10,000,000 brought nominally by the city of Chicago against The Chicago Tribune. The real prosecutors were the preposterous Mayor THOMPSON who refused to invite the King of the Belgians to what he termed "the sixth largest German city," and his associates in the government or misgovernment of that ill-served municipality. The Tribune has been merciless in its criticisms of the THOMPSON regime. It has incidentally asserted that they have brought Chicago to a state of bankruptcy. For this reason THOMPSON & Co. alleged that the newspaper had injured the credit of their beloved city to the extent of $10,000,000.

The enterprising Mayor had no notion of substituting a $10,000,000 damage suit for a municipal loan. His great idea was to silence his powerful opponent and overawe the press in general. Merely to put the newspaper to the enormous expense of defending the case in a lengthy trial would have served his punitive purpose. It would likewise have proved a deadly weapon to overawe the press in every other American city by furnishing a precedent for striking at the freedom of newspapers to examine into the acts of municipal officers and criticize them in all the fearlessness of public spirit and civic patriotism.

The principle enunciated by Judge HARRY FISHER, that "the harm that would result to the community from an officialdom unrestrained by fear of publicity is incalculable," goes to the root of the controversy. As he pointed out, if public officials were allowed to maintain a suit of this nature "they would have in their hands one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be held over the head of everyone who dared print or speak unfavorably of the men in office." So clear and cogent a vindication of freedom of the press in political criticism forms a precedent of inestimable value in every community.

From the Cincinnati Times-Star reprinted in the PITTSBURGH (Pa.) *Gazette-Times*, Sept. 29, 1921.

Can You Libel a City?

The suit of the City of Chicago against The Chicago Tribune for $10,000,000 damages for libel for saying that the city was "broke" is, of course, largely politics. But the suit has an importance other than personal. The Tribune declares that in criticizing the financial condition of Chicago it was performing a public service and that to permit a governmental entity to sue for libel is to entrench the party in power. That the borrowing ability of Chicago has been affected by the Tribune's criticisms of the financial policy of the Thompson administration may be true. And it ought to be true. The pump in every big city is worked too facilely. All that municipal administrators had to do was to approach with their buckets, and, presto, they were filled. And it has been going on so long that at last many cities are able to see the bottom of their financial wells. What cities need is not so much laws of libel as laws that will permit them to raise enough money by taxation to enable them to function, and yet will prevent the wasters from dissipating the public funds, secured from bonds or from taxes, on dishonest contracts and extravagant schemes.

PITTSBURGH (Pa.) *Press*, Oct. 19, 1921.

Thompson Fails to Gag the Newspapers

When Chicago's machine mayor, Thompson, acting ostensibly in his official capacity, brought a $10,000,000 libel suit in the city's name against The Chicago Tribune for saying that graft and extravagant incompetence in the public service had reduced the city government to virtual bankruptcy, it was evident that he was chafing under the criticism and imagined that by the intimidation of such a libel suit he could perhaps silence the paper and make it easier for his machine to carry the next city election.

The Tribune was not frightened for a single moment by his "bluff" but relied upon the constitutional guarantee of a free press to protect it in keeping the public informed as to Thompson's maladministration. It trusted the common sense of judge and jury to detect Thompson's purpose. It was, of course, his own personal suit, not the city of Chicago's, which was made to appear as the plaintiff.

The city of Chicago was not being hurt but benefited by the Tribune's exposure of graft and incompetence in office. Ring government does not benefit the taxpayer and is not intended to. It exists for the private benefit of the ringsters and the grafters who thrive wherever rings are in power. And it is not only the right but the duty of an honest newspaper to tell the truth about it.

The Tribune's confidence that no such suit as Thompson's would stand was not misplaced. Judge Fisher has not only thrown the case out of court but serves notice on Thompson that a motion to reopen the matter by the filing of an amended bill will not be entertained. The opinion which accompanies the decision should be read by ring politicians everywhere. Their desire to gag the press is doomed to disappointment as long as America remains America, the home of free government. Judge Fisher pointed out that if a newspaper is not free to criticize public officials, "then the latter have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of every one who dares print or speak unfavorably of the men in power."

WILLIAMSPORT (Pa.) *Sun*, Oct. 8, 1921.

Muzzling the Press

Mayor Thompson, of Chicago, is suing The Chicago Tribune for libel.

The Tribune published a statement to the effect that the city of Chicago was bankrupt, and the mayor contends that the statement was false and that it was the cause of serious difficulties when the city tried to dispose of its bonds.

There is a moral side to this controversy. And it seems that the moral element outweighs the financial to a considerable extent.

Whether the Tribune will be forced ultimately to pay the ten million dollar damages which the plaintiff seeks to extract from it is a question of importance to the contending parties only.

But whether any government in this land of the free, city, state, or federal, can destroy an important organ of public opinion in its entirety whenever such an organ becomes detrimental to its plans and policies, is a question of the most vital concern to every citizen of the republic.

If the Chicago mayor succeeds in crushing the well-known morning paper a precedent will be set to other governments, city, state, and federal, so dangerous that the ultimate effect can hardly be estimated. It will be a nice bit of czaristic autocracy. The freedom of the press, as sacred as the federal constitution itself, will have been rudely assaulted. Squint-eyed politicians and Tammany Hall men of every description will ring their liberty bells and summon all their confederates to a grand and hilarious "bundesfest."

When Lloyd George, on a recent occasion, tried to muzzle the London Times by withholding from that paper official information on government affairs, the whole world decried the act of the British statesman as both puerile and tyrannical.

But Lloyd George's act was extremely amateurish.

It takes one of our little American despots to show the world how it should be done. It takes a product of Felicia Hemans' "holy ground," upon which the Pilgrims

once set their feet; it takes a citizen of this "sweet land of liberty," to wield the hickory club that will deliver what executioners used to call the stroke of grace.

If a paper is actually guilty of libel it should be made to pay for it. But you don't hang a man for a mere theft.

Americans believe in freedom of conscience. That is a sacred religious principle with them. Freedom of conscience implies freedom of action and freedom of expression. One's conscience may urge him to express himself concerning a certain matter either in private or in public. A public expression of opinion, or public criticism, may at times be very severe. But if it is deserved we ought to have it and the critic ought to be praised for his valor.

American principles of freedom also used to apply to newspaper editors. These men are the guardians of the public weal in an unofficial sense. Their papers act like checks upon conscienceless governments. They are sinners like the rest of us, and for that reason they may go astray. But they cannot be missed in the make-up of this modern world. Their position is one of extreme importance and responsibility, and unless they prove wholly unfaithful to their sacred trust and work the ruin of the public instead of its welfare, no political force should be allowed to decapitate them financially or use them as a devil's footpad for purposes of self-aggrandizement.

The Chicago libel suit ought to interest every American citizen, from Maine to California.

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ALLENTOWN (Pa.) *Call*, Oct. 20, 1921.

Right of Press to Criticize Public Officials

Out in Chicago a suit for $10,000,000 was brought by the City against the Tribune alleging that the credit of the city had been damaged to that extent by certain of the newspaper's publications. That suit has been dismissed and the city has lost.

The result of the suit is one that is heartening to pa-

pers all over the land and of value to the public in demonstrating again that the freedom of the American press is not to be throttled.

The Tribune for years has been merciless in its expose of affairs as conducted by Mayor Thompson. Constantly the party in power has been stung to the quick. Recently a bond issue was not subscribed for because of the fear that the city was on the road to bankrúptcy as a result of the Thompson policies. Then followed the suit.

Now it was evident all along that there was no earthly hope of getting ten million dollars from The Chicago Tribune in any court of law. It was evident that the suit was not instituted for that purpose. The sole purpose was to muzzle the paper and by muzzling one sheet, fear would be thrown into the entire group of papers and the Thompson party could continue its conduct of Chicago affairs undisturbed. The suit was so preposterous that the intent was evident, which was to browbeat and to inconvenience by making the paper the defendant in a case that could be dragged thru the court for years at great expense and embarrassment to the latter. Success of the Chicago suit would likewise have had its influence on the press in every other city.

But the Chicago suit has failed and the right of papers to inquire into the conduct of public affairs emerges unscathed from the attack, in fact it is all the more strengthened. In dismissing the case the judge declared that "the harm that would result to the community from an officialdom unrestrained by fear of publicity is incalculable." It summed up the entire situation and defined the rightful policy of the American press.

No one with any sense of decency believes in unwarranted attacks upon public officials simply because they are officials and may differ politically or otherwise from those who write for the papers. But that the acts of public officials are protected by the Kaiseristic principle of "lese majeste" is intolerable to American ways of thinking. That it has been completely destroyed by the Chicago verdict is of value to the entire American press, whose freedom must be protected and defended with as much spirit and determination as the other sacred principles of the national Constitution.

BOSTON (Mass.) *Globe*, Sept. 24, 1921.

People Versus Polls

In the two foremost cities of the United States the press and the Government are at loggerheads. The Mayor of New York, not liking what the newspapers say about him, publicly proposes to the big advertisers that they put pressure on the papers by withholding their support. "If some of you business men would stop advertising for the next six months, many of these newspapers would have to go out of business, and they would then stop this knocking and conform to more decent business methods."

The city of Chicago, acting through the Thompson political machine, has brought a $10,000,000 libel suit against The Chicago Tribune for certain criticisms of the financial administration of city business. Such a suit, if successful, would, of course, wipe out the newspaper.

Both attacks on the press are unmistakably crude. In New York it is a Tammany Mayor resorting to the methods of the ward boss. In Chicago it is an attempt to twist the libel law away from its true intent into doing the work of confiscation. In both places more than a city administration is at issue.

The issue is whether authority shall be immune from public criticism.

Merely to state this case would seem sufficient to indicate how indefensible such immunity is, yet it is surprising what quantities of short-sighted advocacy the proposal to suppress free criticism can find.

It is the same kind of judgment displayed by parents who laugh at their children when they swear, "because it sounds so cute," and then consider themselves the injured parties when those same children land in the prisoners' dock.

Authority—any and every kind of authority—likes to go unchallenged. That is in the nature of the case. It is so much easier to go ahead and do things without being obliged to answer questions of how, when, where and why. One of the first instincts of authority is to look for some way to stifle or evade such questions of its stewardship.

Now, the whole experience of democratic experiments in government has been that, for self-protection, its stewards in authority must be subject to continual scrutiny and frequent challenge. Where society is simple, this can be done by voice in the town meeting. Where society is complex, as it is in a great metropolis, this has to be done through the press. The mere suggestion that it be stopped is preposterous. It is like the hired man objecting to being given orders by the farmer who employs him. Do the Chicago municipal authorities object to public criticism of how the city's money is spent? Well, whose money is it, anyhow?

The same duel between light and darkness which sets the press and Governments of these two cities to calling coffee and pistols is staged by the impending Disarmament Conference. When these American, European and Asiatic Governments meet to consider how the money we pay in taxes is to be spent, much, if not everything, will depend on how strongly we insist that their deliberations be in the open, where they can be seen and criticized by the citizenries of their several countries. Some of those Governments are heartily in sympathy with the Tammany Mayor and the Chicago political machine. They would exclude the press if they could or dared.

But beyond the immediate issue a larger one looms. Casual perusers of events may sometimes wonder why zealots for the cause of popular liberties should often raise such a hullabaloo over the right of free speech. In this or that particular case one finds himself rather sympathizing with the suggestion that this or the other spouter ought to be shut up. A little more extended study reveals the tack in the tire of this idea. Stated quite simply it is this: If I let anybody else be shut up today, tomorrow, when I may feel just as strongly about something, I may be the one to be shut up. Consequently, no matter how foolish or obnoxious my neighbor's utterances may be to me personally, it is to my interest to let him talk. (Incidentally, as a matter of practical politics, it has also always proved far safer in the long run.)

The classic instances of this are in the period of our own antislavery agitators. No small part of their support came from people who, at the start, like Wendell Phillips, had little interest in Abolition as such, but who were

intelligent enough to perceive that you cannot run a country by means of a democratic form of government unless you allow its citizens the utmost freedom to criticize those to whom they have deputed their authority.

Uncle Dudley.

BOSTON (Mass.) *Herald*, Sept. 26, 1921.

Chicago's Libel Suit

The mayor of Chicago has brought suit against The Chicago Tribune for $10,000,000 on a libel charge. He files the action in the name of the city and founds it on the allegation that the newspaper damaged the credit of the city and contributed to its financial embarrassment by printing certain statements at an inopportune time. For several days the arguments in the case have been going forward. The amount of damages named is said to be enough to absorb the entire plant of the paper.

This suit of Mayor Thompson's is interesting to the whole country because of the issues involved. The defense claims that it is against public policy to permit a city to sue a newspaper for libel and demand confiscatory damages. Also, as might be expected, that the statements to which exception is made were true, that the city was "broke" when the Tribune so asserted, that a large part of the articles upon which the suit is based were merely reports of city council meetings and other official and privileged matter, and that the printed statements were reaffirmations of charges made openly and repeatedly by candidates for public office. The mayor in the name of the city claims that the Tribune printed statements concerning the condition of the city treasury which hampered the city in its efforts to sell municipal bonds in the open market. The paper replies that the law is supposed to safeguard bond issues in such degree that their value will not be so affected, and that it is not good public policy to prohibit the free discussion of the finances of any institution that has bonds or securities of any kind to sell.

And of course the defense builds its case upon the guarantee of the freedom of the press upon which all newspapers must depend for their security and the

opportunity to render that public service for which a newspaper should stand. Indeed, the Tribune's counsel the other day reviewed the whole story of the struggle for free speech from the period of the Roman Emperors down to the present time. The constitution of the United States and the constitutions of every state in the union sustain the principle of freedom of speech and press.

Clearly this is a rare case. It is said to be without precedent in this country. Are newspapers to be prohibited from criticism of official incompetency? Must newspapers refrain from publication of what they believe to be the truth as to the finances of their state or their city?

BOSTON (Mass.) *Transcript*, Oct. 17, 1921.

Newspapers and the Public

The decision of the Cook County Circuit Court in the libel case brought against The Chicago Tribune by Mayor Thompson in the name of the city of Chicago does much more than justify the particular editorials and news articles in which that paper had criticized and denounced the administration of Thompson. The finding of the court is squarely for the Tribune; but besides settling the immediate question whether or not the Tribune had defamed the mayor and his administration, the decision lays down some general principles that must serve as precedents in the consideration of the matter of public criticism by newspapers. The decision raises the newspaper, in this public relation, quite above that of the private defamer who perhaps, for reasons of his own interest or from malignant motives, circulates a slander against his neighbor. The bent of the decision may be gathered from the following extract:

> The press has become the eyes and ears of the world, and, to a great extent, humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue.

Naturally this ruling does not affect the question of the newspaper's responsibility for an abuse of the liberty of writing and publishing on all subjects. It does not supply any defense whatever for scandal or defamation. But it does take account of the equal responsibility of the newspaper to the general public to tell the truth to the best of its ability where the public is deeply interested. If the press is the eyes and ears of the world, is it justified in closing both eyes and ears to a public evil? Manifestly the Illinois Circuit Court thinks it is not.

Men in office are fairly subject to newspaper criticism. If they were not, public officials, in this day of the world, would have not only the newspapers but the general public under a complete system of intimidation.

BOSTON (Mass.) *Herald*, Oct. 18, 1921.

Critics of Chicago

The first attempt on record of a city government to avenge itself upon a newspaper critic by a libel suit has failed completely, through the sensible and well-considered ruling of Judge Fisher in the case brought by the city of Chicago against The Chicago Tribune and the Daily News, for alleged injury to the city's credit and financial standing, to the amount of ten million dollars, through their criticisms of city officials and policies.

The counsel for the city cited as a precedent for the case a suit brought by the city of Manchester, England, thirty years ago, on similar grounds; but the judge brushed this case aside, for the sufficient reason that the decision of a foreign tribunal furnished no precedent in such a case, and he quoted the provision of the Illinois Constitution of 1870 that "every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty," and affirmed that "the freedom of speech and of the press was, at the very inception of our government, regarded as indispensable to a free state." Legitimate restraints upon this freedom have been narrowed down to four heads—blasphemy, immorality, sedition and defamation. The judge dismissed the first two as not involved and held that if the Tribune's articles alleging that the city was "broke"

were neither seditious nor libelous, they were unrestrained. If the present suit were maintained "public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies. It would be a weapon to be used over the head of everyone who dared print or speak unfavorably of the men in power."

This suit for ten million dollar damages by the Chicago city government was evidently meant to silence criticism in the press or on the platform. With such a possible penalty impending—large enough to wreck any newspaper property—anything like fair and frank criticism of a municipal administration would be impossible. The principles involved are nation-wide. They apply as plainly to a Fitzgerald or Curley government in Boston as to a Thompson government in Chicago. It is for the interest of all concerned that there should be fairness and reasonable restraint in all criticism of public officials, but that is a different thing from treating the city itself, by a legal fiction, as a private person, for whom the laws of libel might be invoked, with damage claims of ten million dollars.

BOSTON (Mass.) *Globe*, Oct. 19, 1921.

The city of Chicago's $10,000,000 suit against the Tribune has been thrown out of court, and the newspapers of the Windy city may now continue to express their doubts about the kind of government that Mr. Thompson passes around.

SPRINGFIELD (Mass.) *Republican*, Oct. 17, 1921.

In throwing out the city of Chicago's $10,000,000 libel suit against "The Chicago Tribune" the judge has ended one of the greatest farces that ever got into a court of law. The notion that in criticizing the finances of a city a newspaper exposed itself to a suit for damages measured by the alleged injury to the city's credit was worthy of the present Thompson administration.

KINGSTON (Mass.) *Leader*, Oct. 29, 1921.

The Newspaper

In upholding the demurrer of The Chicago Tribune to the Thompson suit against that paper for $10,000,000 Judge Fisher paid this tribute to the newspaper as a disseminator of public information and defender of the people:

> It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue.

The newspaper is the greatest factor for good a community can have; the greatest aid a merchant can have and the most formidable foe a dishonest man or business can have.

BALTIMORE (Md.) *Evening Sun*, Oct. 17, 1921.

A Victory for Free Speech

The decision of Judge Harry Fisher, of Chicago, sustaining the demurrer of The Chicago Tribune to the $10,000,000 libel suit brought by the city of Chicago, is a distinct victory for the cause of a free press in America.

The Tribune and the Daily News are being sued on the ground that they printed false statements regarding the financial affairs of the municipality, thereby injuring the city's credit. In pressing its claim the city administration was relying on certain portions of the English common law restricting the liberty of the press. Sustaining the demurrer, the judge denied that this country had inherited these restrictions. On the contrary, he held that the founders of the republic were distinctly opposed to any such restraints on free speech.

> The freedom of speech and of the press (he said) was at the very inception of our Government regarded as indispensable to a free state. Those who attempted to check the passion for it were branded by history as barbarians and tyrants.

We have previously alluded to the possibilities that might grow out of a decision in this suit favorable to the municipal government of Chicago. We venture to say that a quarter of a century ago a city administration would hardly have dared resort to such a suit to silence its newspaper critics. In recent years, however, we have been traveling a strange path in the direction of suppression. It was about time that some court should stand up and call a halt. If a newspaper del berately misrepresents the facts it is the first to feel the effects of an abused public confidence, and the lesson is always a costly one. But far costlier to the public would be a system under which public officers could suppress criticism of their acts by legal process.

BALTIMORE (Md.) *Sun*, Oct. 17, 1921.

Judge Fisher's decision that the city of Chicago has no cause for action against The Chicago Tribune is a preliminary victory for the newspaper in its defense against the city's $10,000,000 libel suit. His statement that incalculable harm would result to the community from "an officialdom unrestrained by the fear of publicity" is a deserved tribute to the part which newspapers play in attracting public attention to the acts of those who occupy offices of public trust, even though it does seem to attribute to public officials a venal character which most of them do not possess. But more interesting is his belief that the American people will not long support a newspaper which habitually misrepresents the truth, for this is a contention that critics of the press do not always recognize as sound. That it is sound is the theory of modern journalism, and it finds support in the general proposition that the press should not be subjected to official censorship. Chicago's denial of this proposition is, according to Judge Fisher, "out of harmony with the genius, spirit and object" of American institutions.

BALTIMORE (Md.) *American*, Oct. 18, 1921.

The Freedom of the Press Vindicated

The "never-ending audacity of elected persons" must surely have reached its climax in the recent suit brought by the city of Chicago against The Chicago Tribune. The legal advisers of the City Council contended that the Tribune and the Chicago Daily News by printing adverse criticisms of the municipal administration had "libeled" the city and thereby lowered its credit in the money market. To cover the alleged financial loss damages were asked in the sum of $10,000,000. This is merely an unusually insolent way of saying that a municipal administration, by whatever means it may have been returned to power and however inimical to public interests its corporate acts may be, is immune from unfavorable criticism. In the same category of thought belong those administrators who, when an outside survey of any department or phase of the government of which they are the servants makes a critical report, try as long as possible to keep the report from circulation lest its publication should give their city or state "a black eye."

Fortunately, there is a considerable number (not yet so large as it should be) of people who are weary of whitewashing reports, shallow boosters and weak-kneed administrators, and who want to know the truth, the whole truth and nothing but the truth about the administrations which are in charge of their public business. Still more fortunately, as in the case of the suit mentioned, there are clear-headed judges who conceive that a very important part of the duties of their office is to defend popular rights and liberties. Judge Fisher in pronouncing in favor of the Tribune declared that if the action of the City Council were sustained, then

> —public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of every one who dares print or speak unfavorably of the men in power.

No other judgment could, under the circumstances, have been handed down and the two Chicago papers which have consistently, in the name of good citizenship,

carried on a campaign of criticism against the existing municipal administration of their city have earned the thanks of the whole country and have been handsomely vindicated by the judge who decided in their favor.

BANGOR (Maine) *Commercial*, Sept. 17, 1921.

Something New in Libel Suits

There is something new in libel suits in that which has been brought against The Chicago Tribune, in that the suit is brought by the city of Chicago as a corporation. The ad damnum is set at $10,000,000 and it is alleged that libelous statements made by the Tribune regarding the financial condition of the city resulted in impairing the credit of the city and increased the difficulty of transacting the business of the city.

We doubt if the Tribune is greatly worried. The suit is clearly the outcome of the political conditions in Chicago and the Thompson administration is apparently attempting to get back at the Tribune for criticisms made. The freedom of the press would certainly be threatened if a newspaper should be penalized for published statements regarding the financial conditions of a city. Such suits could as well be brought by a state or national administration.

BANGOR (Maine) *Commercial*, Oct. 18, 1921.

That the $10,000,000 suit brought against The Chicago Tribune in the name of the City of Chicago has been thrown out of court is not surprising, for few believed that a newspaper is going beyond its province in criticizing the financial condition of a city. Should the Tribune have been penalized for its expression of opinion and its publication of the facts on the ground that the credit of the city was injured thereby, a heavy blow would certainly have been struck at the freedom of the press and at representative government as well.

WATERBURY (Conn.) *Democrat*, Oct. 1, 1921.

Mayor Thompson bitterly resents the criticism his administration invites, which explains the city government's ten-million-dollar libel suit against The Chicago Tribune.

HARTFORD (Conn.) *Courant*, Oct. 17, 1921.

The absurd suit of the city of Chicago against The Chicago Tribune for $10,000,000 damages has been thrown out of court. The judge rules properly that it does not belong there. It was a case of politics trying to use the law against a free press and the right of the people to know what their own government was doing.

HARTFORD (Conn.) *Times*, Oct. 18, 1921.

Chicago Tribune's Victory

Had Mayor Thompson and his crowd been successful in their suit for $10,000,000 for libel brought in the name of the city against The Chicago Tribune there would have been an end to freedom of speech and of the press in the Windy city. The court throws the suit out and orders a decision for the defendant, an outcome of the litigation which lawyers and newspapers expected.

If men holding office could make it impossible for the press to criticize their official acts this country would not long remain free. It is the function and duty of the press to keep the public informed about its affairs. The Tribune declared that the policy of the administration which has Chicago in its grip was driving the city into bankruptcy. The city sued, claiming that the statements in the paper affected its credit and hurt the city's good name. But the Tribune was doing its duty by the people of Chicago, and apparently it never entertained any fears as to the outcome of the case.

Comparatively few people ever stop to think of what they owe the newspapers. Every day, for expenditure of but a few cents, they can buy papers that give them accounts of the most important happenings throughout the world. If matters of international concern are settled in Paris or London, the news is printed in the same issue with accounts of the social activities of the reader's neighbors, the sale of real estate or whatever may be the news. If the city council, the legislature, congress or the executives of the city, state or nation have taken action or neglected to take action on some important matter, it is the duty of the press to comment

upon it, fairly and honestly, for the protection of the people. As the judge in Chicago said, when dismissing the suit against the Tribune, but for the press "the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue." The victory of the Tribune over the political machine that controls Chicago is really a victory for the Chicago public.

NEW HAVEN (Conn.) *Register*, Oct. 28, 1921.

The Free Press Upheld

For more than the newspaper craft is the interest in the decision of the Chicago district court freeing The Chicago Tribune from the ten-million-dollar suit brought against it by the mayor and other officials of that city for alleged libel on the city's good name. As the reasons for the sustaining of the demurrer and the practical dismissal of the suit are stated, it is a decision upholding an institution dear to all Americans, the free press.

The complaint against the Tribune, it may be remembered, was that in effect it charged that the Thompson administration had bankrupted the city. The suit, it was clear, was not so much to recover $10,000,000 and restore the city to solvency as to punish the too frank newspaper and warn it and others in the future against such freedom of speech. Judge Fisher, in making his decision, seems to have considered less the question as to whether the charge of having bankrupted the city was sustained, than the question whether it was for the public good to bludgeon a newspaper into silence. Unmistakably he decided that it was not. This was his view on that point:

"Stripped of all the elaborate argument, in the confusion of which the question for decision might look difficult, the fact remains that, if this action is maintainable, then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of everyone who dares print or speak unfavorably of the men in power."

It is presumable, and the judge did presume, that the newspaper acted without malice. Against an individual there might be malice, but a newspaper thinks too much of that good will which is its life to malign its community. Against that the public seems very well protected. It remains that something be done to make sure that the public is also protected against the suppression or the intimidation of any newspaper that dares to denounce officials who it honestly believes to be acting in subversion of the public interest. That something Judge Fisher's decision seems in a way to accomplish.

PROVIDENCE (R. I.) *Tribune*, Oct. 19, 1921.

Press Freedom Upheld

The city of Chicago has lost its suit against The Chicago Tribune charging that paper with "libeling" the city in printing criticisms of the corporate acts of the municipality. Damages in the sum of ten million dollars were asked.

It was, of course, a ridiculous suit, brought really not by the city but by the notorious Mayor Thompson, who, however, in his political audacity assumes to be the city. It was he that the Tribune, as well as other Chicago newspapers, criticized, and he in his public capacity as the head of a municipal administration which was bringing disrepute and peril upon Chicago.

In throwing the suit out of court the judge reaffirmed some fundamental and wholesome principles. The press is far from being unbridled. Laws exist to punish it for sedition, indecency or personal defamation. But public policy and judicial decisions have long permitted and even encouraged the freest criticism of men in office. The judge in this case pointed out that if the city's action was held maintainable "then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of everyone who dares print or speak unfavorably of the men in power."

Thus again an impudent attempt to limit the freedom and usefulness of the press has had the stamp of deserved judicial disapproval placed upon it; and again a danger-

ous attempt by one of the most arrogant of political machines to maintain itself in power and to outlaw, crush and silence all possible effective criticism of itself and its acts is defeated.

The ruling made is the expected ruling. Upholding the contention of the city would have meant that, no matter how corrupt or sinister any official might be, he would be able to use the powers of the municipality in hiding his infirmities and crookedness. With the taxpayers' money he could prosecute any taxpayer who publicly criticized his crookedness.

To accept such doctrines would be to prepare the way for a period of municipal corruption and debauchery that would smell to heaven. Extended to State and Federal Government, it would mean the end of popular rule and a quick decline to self-perpetuating autocracies built on a lust for undisturbed and unending power.

CASPER (Wyo.) *Tribune*, Oct. 20, 1921.

Destroying the Cornerstone

William Hale Thompson, mayor of Chicago, has had a lesson which he may sit down and think over, with much profit. It ought to take a little of the wire edge off William's temper and make a better mayor and citizen of him if such is within the possibilities.

At least he will not again seek to remove the cornerstone of all modern government when he gets peeved.

His suit for ten million dollars against The Chicago Tribune, on behalf of the city of Chicago, as alleged damages, claimed against the newspaper for impairing the city's credit, by reason of publications reflecting upon the city's financial condition and its management under the mayor's direction, was dismissed.

The case rested upon the right of free speech and the court's ruling added strength to the principle involved. The city's right to sue in such circumstance as existed was denied, while the plaintiffs as public officials were reminded that they had all the remedy and protection required by the laws of libel.

The court suggested that the power of a newspaper to injure a community or a public official is limited by the degree of public favor it enjoys. If a newspaper persistently misrepresents the facts, shows animus, unfairness or spite, it destroys public confidence in itself and its influence over public opinion is small. That is all the protection necessary to a public official conscious of performing his duty. It would be a most dangerous and destructive power to place in the hands of public officials—the power to silence a newspaper that exposed or criticized public acts.

The mayor of Chicago is not now and never will be big enough to abolish free speech or suppress the honest opinion of newspapers.

SEATTLE (Wash.) *Times*, Oct. 19, 1921.

Freedom of the Press

A victory for good government the country over was won by The Chicago Tribune recently when a court in that city dismissed a suit for $10,000,000, brought

against the newspaper for articles dealing with the financial standing of the municipality.

The claim was made that these articles "injured the city's credit." In truth and in fact, the action was designed to muzzle The Tribune because it had been unsparing in some of its criticism of political and governmental conditions in the Middle Western metropolis.

The court properly held that such discussion was within the rightful purview of the press and that newspaper comment dealing with such matters could not be curtailed without abridging the freedom of speech of these publications.

If there is one vital service the press renders the people of any community, it is that of exposing conditions in government which otherwise would remain secret. To abridge that service would be to render impossible exposures of inefficiency and corruption and would make it practically impossible for the people to force "an account of stewardship" from their public servants.

SIOUX FALLS (S. D.) *Argus*, Sept. 26, 1921.

The Real Defendant

Every newspaper in the country is interested in the outcome of the $10,000,000 suit brought by the Thompson machine, in the name of Chicago, against The Chicago Tribune. The question involved in the suit is a fundamental one. If a city can maintain a civil action in libel against a newspaper so can a state and so can the nation. The result would of course be to ruin the newspapers which could not be frightened into submission and the day of a free press and free speech in this country would be at an end. We can not think that the courts will give standing to such a suit. Its success would give to political machines the most dangerous weapon ever put in their hands and they could plunder at will when the press was gagged. In this respect the real defendant in this action is not The Chicago Tribune but the whole American people.

SIOUX FALLS (S. D.) *Argus-Leader*, Oct. 17, 1921.

A Daniel Come to Judgment

Undoubtedly good law and certainly good sense was the ruling of Judge Harry Fisher of Chicago, who threw out, on demurrer, the suit of the city of Chicago against The Chicago Tribune and the Chicago News for libel, in an action in which "$10,000,000" was claimed in the way of damages.

Judge Fisher held that an action of this kind could have no standing in an American court, that it was not in harmony with the genius, spirit and objects of our institutions, and that the precedent established by a city in England could not be the guide for courts in America.

Had the court given standing to such a suit, machine politicians would have been given a weapon which they would not have been slow to use. If a newpaper can not safely criticize a city, as a corporation, it would be equally unsafe to criticize a state or national administration. A strong federal machine entrenched at Washington could do pretty much as it pleased so far as the newspapers are concerned, for they would not dare to go after things with bare knuckles as they do now. The same thing would be true in state and municipal affairs. Protected from the pitiless publicity which is a public safeguard, machines like that of Mayor Thompson in Chicago, or of Tammany in New York, could misrule, rob and plunder at will, for the people would not know the facts and the newspapers would not dare to make any charge unless they were in a position to bring absolute proof in court.

At the time the Chicago action was brought, the Argus-Leader said that the suit was really one against the entire press of the country and against the American people. The decision of the Chicago judge was to be expected. When a newspaper gets unfair or grows untruthful, the public will in the end appraise it for what it is worth; but the time has not yet come when an "administration," be it municipal, state or national, can silence the American press through actions for libel. If all the people could be taxed to pay the costs of such actions, there would be no limit to them until the press of the country had grown servile and timid.

FREDERICK (Okla.) *Leader*, Sept. 23, 1921.

A Blow at Freedom

It is a most unusual spectacle, that of a city administration suing a newspaper for damages—such as is the case with the city government of Chicago and The Chicago Tribune.

If such a case could be made to stand up in the courts, then the freedom of the press would be a farce, as criticism of public officials is one of the prerogatives specifically granted to newspapers and citizens generally.

If a set of officials can proceed to spend the money of the people as they please and to the press is denied the right to criticize their acts, then a great source of protection from official dishonesty has been removed from the people.

It is true that the liberty of the press is often abused, but not as often as is the trust imposed in public officials betrayed.

FREDERICK (Okla.) *Leader*, Sept. 28, 1921.

The Truth, Fitly Spoken

The suit of the city of Chicago against The Chicago Tribune for libel has brought out the fact that the libel law of Illinois makes this provision:

"Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty, and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be sufficient defense."

This is such a provision as the Oklahoma Press association has contended for in the Oklahoma laws, on several occasions, but always unsuccessfully.

The national constitution provides that "congress shall make no law abridging the freedom of speech or of the press," and most state constitutions make the same provision—but Oklahoma is one of the states where lawmakers have presumed to restrict this American principle, and to define what is "privileged" matter, and what is forbidden matter, against which the truth shall be no defense.

To read the Oklahoma libel law, one would be justified in believing that it was constructed by adventurers from other states who were afraid of ghosts of their past lives.

No one should be permitted to commit libel or slander. No one should be allowed to use the power of the press to wreak malice or spite. But the truth, "published with good motives and for justifiable ends," should always be a "sufficient defense," and if Oklahoma publishers were as alert to the interests of their profession as they are to the public interest in other things they would see that this was the law.

Constructive criticism, for the public welfare, both of men and of measures, should be an implied duty of the public press, to be encouraged rather than throttled.

McAlester (Okla.) *News-Capital*, Nov. 1, 1921.

Newspaper Criticism

When The Chicago Tribune was vindicated in court in its inalienable right to criticize public officials, newspapers all over the country rejoiced that another attempt to muzzle the press had failed. And it's a mighty good thing for all concerned that the attempt did fail.

The press of the country has survived because it has rendered service to the public, and one feature of that service is its courageous attacks at all times on that which is corrupt and disastrous. Newspapers make mistakes sometimes, but in the great majority of instances they will be found on the side of right and progress.

The press has no leave to print falsehoods, and every state has stern libel laws to protect those who might be damaged by false statements. The press, however, does have leave to show up men intrusted with public affairs who are not worthy of that trust.

The News-Capital for its part has never undertaken to dig into men's private lives nor has it made of its issues personal ones. We think such procedure not worthy of a newspaper. Criticism of men's public acts is at all times a prerogative of newspapers and one that should be carefully handled but sincerely followed.

MINOT (N. D.) *Republican*, Saturday, Oct. 1, 1921.

Popular Liberty at Stake

The $10,000,000 damage suit begun by the City of Chicago against The Chicago Tribune is a test case of vast importance to the country and is being watched by the people with widespread and increasing interest. Once they realize what is involved in this action the people will take a still greater and more active interest in the matter. The real issue is the freedom of speech and the press guaranteed to the people of the United States by the federal Constitution. It is one of the foundation principles upon which this government was founded and may well be called the cornerstone of popular liberty. The first act of tyrants of all kinds is usually to suppress free speech and muzzle the press. The greatest force in exposing and destroying tyranny and evil doing is pitiless publicity. There may be mistakes in the publicity, but its enormous general value should cause the overlooking of the errors which are inherent in any human institution.

If the Chicago case should establish a precedent that a city or any other governmental body can successfully sue and thru law inflict so-called punishment upon the newspapers, America will have taken the greatest possible step backward toward despotism and oppression of the people. It will be the cue for every rotten political alignment and corrupt clique of politicians to use the law to club and embarrass the opposing press, to silence it and to prevent it from telling the truth and protecting the people against the wrongdoers of every sort—the grafters, the oppressors, the misusers of power, the tricksters, the jobbers, the wasters, the agents of misgovernment of all kinds. A mere glimpse at the possibility should be enough to make one realize the danger and inspire him to immediate action to prevent it.

The Tribune said that the City of Chicago was bankrupt, that it could not pay its bills. Perhaps this statement was true at the time, perhaps it was not strictly a fact. It emphasized a bad financial condition, however. Many North Dakota newspapers as well as individuals have declared that North Dakota is bankrupt. Such a statement is far more true than if applied to Chi-

cago. This state is in a condition of financial embarrassment that almost amounts to bankruptcy for all present practical purposes. Maybe Chicago was temporarily in the same situation. The criticism tends to act as a spur toward correction.

Suppose the Nonpartisan league government in North Dakota could sue every newspaper for libel and harass it thru the courts. What a tremendous power for harm for oppression, for suppression of news of the evil fruits of Townleyite rule, for enabling the clique to hide behind the veil of silence and continue to delude the people such a system would give.

Good men are not harmed by misstatements, as a rule. Libel actions are made to appear vastly more important in a court room in the unnatural atmosphere created by clever attorneys than the actual facts warrant. But very seldom is a man injured even by wrong statements. Few newspapers deliberately misstate or attempt to injure good men. Their criticisms of the other kind are a public service.

So the whole nation should rise up in support of The Chicago Tribune. The issue is not a fight between Chicago politicians and a local daily there, it is the question of free speech and a free press and a precedent that will mean continuance of these things unhampered for the protection of the nation, or a reversion toward the old days of star chamber government and wrongdoing made easy.

FARGO (N. D.) *Forum*, Oct. 18, 1921.

A Victory for Good Government

Regardless of the merits of this particular case, it would have been a very dangerous precedent to establish if the City of Chicago had been permitted to maintain its suit for $10,000,000 libel against the Chicago Daily News and The Chicago Tribune.

The suit has just been dismissed on a demurrer, the court holding that the city had no cause for action.

These two Chicago papers have been very outspoken in their criticism of the Thompson administration and

every decent citizen admits the criticism has been, in the main, well founded.

But the city administration brought suit for $10,000,000, claiming the city's credit had been destroyed by the publicity. Undoubtedly the administration was less concerned about the city's credit than it was about putting these two newspapers out of business, for a verdict for that amount probably would have bankrupted both of them.

Also, the administration, just as is the case with the North Dakota state administration, ignored the fact that what had injured the city's credit in the first place was the course of the administration and not the publicity given that course.

But the action of the court in dismissing the case permits the taxpayers to retain the only defense they have against public dishonesty and inefficiency. If the suit had been maintained, no newspaper in America would have dared raise its voice in criticism of any municipal or state administration. Criticism would be construed as libel and the whole power of the municipal or state government could then be employed to put the newspaper out of business. It would give dishonest politicians a tremendous club to silence all honest and independent criticism, not only from newspapers but from almost every source. If a newspaper could libel a city government, why could not an individual be guilty of the same offense in making a speech?

The fact that some newspapers abuse the right of criticism does not warrant silencing all criticism. The decision in the Chicago case is a victory for the cause of good government and human liberty.

DEVILS LAKE (N. D.) *Journal*, October 29, 1921.

Press Freedom

The suit for $10,000,000 damages brought against The Chicago Tribune by Mayor Thompson of Chicago has served a good purpose by pointing out once more, in an emphatic manner, the function and merits of the newspaper press in general.

The suit was dismissed by the court as an unwarranted

attack on the freedom of the press. Because the Tribune criticized the mayor's conduct of city affairs, the mayor, identifying himself with the "city" in a way not uncommon among officeholders of long tenure, tried to put the Tribune out of business. Judge Fisher, in upholding the right of the defendant to publish its criticism, declared:

"The press has become the eyes and ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public offices would be the rich reward of the unscrupulous demagogue."

This is the literal truth, as every thinking citizen doubtless agrees. The law and public opinion both recognize that, whatever may be the possibilities of the press abusing its great powers, they are far less than the dangers that would spring from the repression of honest comment.

ALBUQUERQUE (N. M.) *Journal*, Oct. 3, 1921.

Libel Suits

The Chicago Tribune is being sued for libel by the city of Chicago. The basis of the suit is the Tribune's statement that the city is bankrupt by reason of the inefficiency and criminality of the Thompson machine which controls it.

A demurrer to the complaint has just been argued and is now in the bosom of the court awaiting the pronouncement of his decision.

The demurrer is based upon the argument that the freedom of the press, guaranteed by both state and federal constitutions, will be greatly curtailed, if not destroyed, if governments, either municipal, state or national, can maintain suits for libel except in cases of sedition. The immense power of a government otherwise can be used to suppress criticism of its misconduct. All newspapers in the United States await the decision with intense interest.

Suppose, for instance, that the demurrer be overruled and the precedent thereby be established that government can maintain such a suit. Thereafter there would be nothing to prevent the state of New Mexico from suing the Journal or any other newspaper for any criticism of the administration of the state. Silence would be the result. Evil could go unscathed and extravagance and favoritism might run riot without exposure. The people would be unadvised of conditions and their liberties and rights would pass from them. Such a situation is unthinkable.

Yet an effort is being made in the suits of J. M. Raynolds and A. B. McMillen against the Journal to put a construction upon the libel laws which would set a precedent that would accomplish the same result.

Concerning the statements made by the Journal regarding these men upon which they originally brought suit, we do not care to say anything. We promptly answered in those cases and were ready to try the cases in the courts instead of in the newspapers. The question was merely whether we were justified in certain concrete statements we had made concerning them.

However, these gentlemen were unwilling to "go to court" on these remarks which they originally thought were their sources for a grievance. They therefore employed lawyers more capable than themselves and have filed amended complaints. It is these amended complaints which are a menace to the freedom of the press and therefore a menace to the people. If the principles of law which they attempt to lay down can be made to stand in the courts, all criticism of existing conditions in the state will be silenced. Because the interests of the people are involved so vitally, we feel free to discuss the matter. It is by no means a private question between Messrs. Raynolds and McMillen on the one hand and the Journal and its editor on the other hand. Wittingly or unwittingly these gentlemen are striking a deadly blow at the people of New Mexico.

The Journal has talked with great freedom about the bad conditions in New Mexico. It has made rather concrete charges against certain influences in the state. Sometimes it has called them "bosses"; sometimes "higher ups"; sometimes the "junta"; sometimes the

"gang." For more than a year we have pointed out how the state has suffered at their hands. During all of that time we had never mentioned the plaintiffs in these actions or the First National Bank in any connection, until after July 15 of this year.

Soon after the latter date we said the "gang" was after us. The allusion pointed rather directly to the First National Bank. These gentlemen now plead their connection with the First National and argue that the Journal previously used the word "gang" as recited above in attacking general state conditions. Therefore, they say, when we later used the word "gang" in a way which pointed to the First National that we imputed to that bank all that we had previously charged against the "gang" in earlier months and that, in view of their connection with the bank, we thereby imputed it to them personally. So they sue us on the theory that what we have said about Fall, Hawkins and others previously, now hurts the standing of Raynolds and McMillen.

If this theory can be established as the law, a free press in New Mexico is gone forever. Guy Rogers and Charles White, who happen to be executive officers of the First National, can maintain suits, saying we impute to them, merely because they are such officers, all that we have said over a year gone by. Any man whom we have ever intimated that we thought belonged to the Invisible Government in New Mexico in the remotest way could sue us saying that we charged him with everything with which we ever had charged anybody.

If all criticisms of vague and undefined class of men can be imputed to every individual whom we have intimated as associated with that class in any phase of their activities, a multiplicity of vexatious suits can result which would crush any newspaper by the dead weight of expense incident to their trial.

The original suits of these two men could have been tried in two days. If they are to be permitted now to go into all that we have said about other men in an effort to show that we mentally included the plaintiffs all of the time and secretly meant them in every criticism, the cases can not be tried in two months. The sheer expense of trial would be enormous. If this can be done newspapers must cease to criticize anyone.

The people should be alert as to what the real result of these cases would be upon the freedom of the press in New Mexico in case a court should hold such complaints to be good pleading.

No one wants a return to the silence of the grave which prevailed for years. If this can be accomplished, any manner of selfish or corrupt political activity is safe from exposure.

ALBUQUERQUE (N. M.) *Journal*, Oct. 17, 1921.

The Tribune Libel Suit

The judge hearing the demurrer of The Chicago Tribune to the complaint of the city of Chicago against that paper, for $10,000,000 damages for libel, has sustained that demurrer and refused to allow the city to amend its complaint. This ends the case in the lower court unless the decision of the Appellate court remands the case with a reversal of the ruling.

The Thompson-Lundin-Small machine has ruined Chicago. The Tribune said so. Under the plea that the strictures of the Tribune had destroyed the credit of the city, Mayor Thompson brought this action in the name of the city. The court has said "nothing doing."

One shudders in contemplation of what would have happened to the freedom of the press of Illinois to discuss public evils had this malodorous gang succeeded in its attempt, earlier in the year, to elect a complete judicial ticket. With the judiciary in the hands of the gang, the great safeguards of liberty and property would have been gone. The Tribune would have been put out of business in all probability. But the people rebelled against turning the courts over to the politicians and an impartial judge sat between the Tribune and the conspirators.

We congratulate the Tribune. We also congratulate the people. Freedom of discussion is not to be curtailed in Illinois. A little later we will see whether it is to be curtailed in New Mexico. When public evils of every kind cannot be discussed before the people with safety to the newspaper, our liberties will disappear. The

people of a democracy must be given a chance to know what is going on.

The judge in the Tribune case made a ruling of far-reaching effect. We will discuss it later. In brief, he held that the English rule of libel was not inherited by the United States along with the common law. He pronounced it incompatible with the genius of our government.

Unless the libel law is evolved and liberalized to meet the needs of a democracy, a government of the people can not survive. They must know the evil before they can correct it.

ALBUQUERQUE (N. M.) *Journal*, Oct. 20, 1921.

More About the Tribune Libel Suit

The Journal is in receipt of fuller information than was contained in the press dispatches concerning the decision in the libel suit of the City of Chicago against The Chicago Tribune. Our interest in the matter grows out of the present effort in New Mexico to curb the freedom of the press through the medium of libel suits brought against the Journal.

As these suits were originally brought against us we had no serious objection to them. It was really a rather personal matter between Messrs. Raynolds and McMillen and the Journal. We were willing to leave the matter to a jury. If we had said false and malicious things concerning these gentlemen we were willing to be held responsible. We refrained from all discussion of the facts, pending a judicial decision.

But the amended complaints are different. These gentlemen evidently did not know in the beginning just how they considered themselves libeled, although they were sufficiently certain in their own minds that they had been injured to justify beginning some kind of libel suits. They sued us for one libel to begin with and for a different one in the amended complaints.

At present they wish to complain that the Journal classed them with a "gang" in New Mexico and, by inference, charged them personally with all the evil

deeds we have ever charged against any member of a gang. So they wish to bring every editorial utterance of the Journal for eighteen months in issue. To read those utterances to a jury would require weeks. Such suits would weight us down with the expense of the litigation. If these men can maintain such a suit there is no reason why anyone who conceives that his name has been connected remotely or inferentially with the "gang," cannot maintain a libel suit, claiming that all we have charged against the "gang" is imputed to him. Fifty suits, as easily as two, can be maintained against us for these same utterances, if such a construction of the law can be established. It can be seen that such an interpretation of the law would permit any newspaper to be smothered into silence by the sheer expenses of the litigation.

Because of the power which it would give to crush newspapers, the Chicago judge held that cities could not maintain libel suits. He decided that any interpretation of the law which would coerce newspapers into silence is contrary to a sound public policy. Listen to these quotations from his decision:

> "This action is not in harmony with the genius, spirit, and objects of our institutions.
>
> "It fits in rather with the genius of the rulers who conceived law not in the purity of love for justice but in the lustful passion for undisturbed power.
>
> "It will therefore be unnecessary to consider the other questions involved."

Judge Fisher took up Attorney Kirkland's first and principal contention—that the action was not maintainable, that to allow a recovery would violate the freedom of the press guaranteed by the constitution.

It was to this point that he devoted himself almost entirely and upon this argument that he based his decision.

> "Stripped of all elaborate argument," he said in this connection, "the fact remains that, if this action is maintainable, then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies.
>
> "It is a weapon to hold over the head of every one who dares print or speak unfavorably of the men in power.

"It is not the sanctioning of falsehood, it is the protection of the right to speak the truth, the exercise of which right would become very hazardous if actions such as this could be maintained. For fear of publishing an occasional falsehood accidentally, men would refrain from telling the truth.

"The court has no more sympathy with newspapers indulging in scandal and defamation than have the most bitter assailants of the press. But the remedy is not to be found in new laws suppressing publication.

"Such laws would merely result in suppressing the only remedy for the evil—publication of the truth—even of the press.

"Fortunately," he said, "while the good the press is capable of rendering, if unafraid, is without limit, the harm it can do has its own limitations.

"The press is dependent for its success, for its very existence almost, upon public confidence. It must cater to public sentiment even as it labors to build it up. It cannot indulge long in falsehoods without suffering the loss of that confidence from which alone comes its power, its prestige, and its reward.

"On the other hand, the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

The Journal holds with this judge that defamation of private character should be sternly punished. For that purpose, and no other, libel laws should exist. Whenever such laws can be used by officials, members of invisible government, or powerful beneficiaries of special privilege to intimidate newspapers which discuss public evils, official or unofficial, it is indeed contrary to "the genius, spirit, and objects of our institutions."

Will the libel law be so construed as to put in the hands of an unofficial, invisible but all-powerful government, the power to destroy the freedom of the press to discuss public wrongs?

Whether Messrs. Raynolds and McMillen are seeking such an interpretation of the law, wittingly or unwittingly, is immaterial. The legal consequences, in case their contention is upheld, would be destructive to the constitutional guarantee of the freedom of the press. Designing men, seeking to perpetuate undisturbed their pernicious power, could avail themselves of that decision.

From The Amarillo Tribune, reprinted in the
SANTA FE (N. M.) *New Mexican*, Oct. 28, 1921.

Harking Back to the Stone Age

Some time ago The Chicago Tribune declared that the city of Chicago was bankrupt. The city fathers filed a ten million dollar libel suit against the Tribune and charged that the publication of the editorial had injured the city's credit.

Saturday the case was thrown out of court by Judge Harry M. Fisher, who declared:

> "This suit is not in harmony with the genius, spirit or objects of our institutions. It does not belong to our day, but rather to the day when monarchs promulgated laws with the purpose of carrying out their lustful passion for undisturbed power. Since no cause for action exists, it is unnecessary to consider any of the other questions involved in the arguments."

It would have been a fine precedent if the Chicago politicians had won a libel suit against a newspaper. If published criticisms of public officials and governments were prohibited, as the Chicago suit really sought to do, free government would become a myth. The only hope of democracy is based on three great principles, freedom of speech, freedom of the press and freedom of religion. Which of these is greatest it is impossible to say, but to permit the abridgment of any of these would invite revolution ultimately.

SALEM (Ore.) *Statesman*, Oct. 25, 1921.

In throwing out the city of Chicago's $10,000,000 libel suit against The Chicago Tribune the judge ended one of the greatest farces that ever got into a court of law. The notion that in criticizing the finances of a city a newspaper exposed itself to a suit for damages measured by the alleged injury to the city's credit was worthy of the present Thompson administration in Chicago—and that is saying a mouthful.

EUGENE (Ore.) *Guard*, Oct. 28, 1921.

The Chicago judge who dismissed the ten million dollar libel suit of Mayor Thompson against The Chicago

Tribune made law and common sense harmonize when he said:

> "The press has become the eyes and ears of the world. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed, and public office would be the rich reward of the unscrupulous demagogue."

MISSOULA (Mont.) *Missoulian*, Oct. 25, 1921.

In dismissing Mayor Thompson's libel suit against The Chicago Tribune, Judge Fisher said: "The honest officials never fear criticism." We don't know about fear, but we have observed that most of them regard criticism as an offense that should be prohibited by the constitution.

WICHITA (Kan.) *Beacon*, Oct. 17, 1921.

No Muzzled Press

The victory of The Chicago Tribune and Chicago News in the trumped-up libel suit for $10,000,000 brought by Chicago politicians is a vindication for an unmuzzled press.

If the suit had gone against these two newspapers a serious precedent would have been set.

These papers have had more or less fault to find with the administration of William Thompson, mayor, and his lieutenants. They spoke their views freely in criticism. Thru the instrumentality of Thompson and his forces, libel proceedings were commenced against the papers, on the ground that their criticisms were impairing the credit of the city. Of course the politicians under fire were not really afraid of that. They resented the attack being made upon them.

If they had won the suit it would have meant that newspapers all over the country would be deprived of a considerable portion of their freedom and crooked politicians would have much easier sailing.

It was a fortunate thing that the newspapers were left unmuzzled and free.

WINFIELD (Kan.) *Press*, Oct. 19, 1921.

Chicago Tribune Suit

In throwing out the city of Chicago's $10,000,000 libel suit against The Chicago Tribune the judge has ended one of the greatest farces that ever got into a court of law. The notion that in criticizing the finances of a city a newspaper exposed itself to a suit for damages measured by the alleged injury to the city's credit was worthy of the present Thompson administration.

TOPEKA (Kan.) *Daily Capital*, Oct. 20, 1921.

The Freedom of the Press

Judge H. M. Fisher of the circuit court of Chicago made short work of sustaining The Chicago Tribune's demurrer to the action brought by the Thompson political machine of Chicago for 10 million dollars' damages, the suit being brought in the name of the city. Mayor Thompson and the city machine alleged that the Tribune's attacks upon the city government had vastly damaged the city's credit and good name. They evidently were conscious that a libel suit on behalf of themselves individually would have little chance of a verdict, and by bringing the action in the name of the city they avoided liability personally for costs and attorney fees.

In his decision sustaining the Tribune's demurrer Judge Fisher held that the suit is contrary to "the genius, spirit and objects of our institutions," included therein being a free press. At a time when there is widespread criticism of the newspaper press Judge Fisher's remarks are worth reading. He says:

> The press has become the eyes and ears of the world. . . . It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue.

These are just acknowledgments of the service rendered the public by an unshackled press, a service not

always valued at its true worth, but recognized when a crisis or emergency arises which threatens to hamper it. Judge Fisher enumerates some of the functions performed by the American newspaper which make it necessary to good order and the common welfare. In Chicago the power of the press, sometimes described as a menace, is as great as anywhere in the country, yet has not been powerful enough to protect the people of Chicago from misrule. It is not Chicago's press, but its voters, who are responsible for the Thompson machine. And this may be said of every important city suffering from corrupt or incompetent government.

KEARNEY (Neb.) *Times*, Sept. 20, 1921.

The Chicago Tribune is enjoying the luxury of a ten million dollar libel suit brought by the city of Chicago, or rather by Mayor Thompson in behalf of his administration, which is as thoroughly damned throughout the country as Tammany was ever damned in its palmiest days. The question at issue is really the "freedom of the press," in the sense that criticism on a basis of generally known facts is libelous and punishable.

NORFOLK (Neb.) *News*, Sept. 24, 1921.

Free Press at Issue

The libel suit of the city of Chicago against The Chicago Tribune for $10,000,000 raises several interesting points of law and public policy, but none is of greater importance than the one involving the right of a newspaper to criticize city officials where the criticism might be taken to reflect on the financial condition of the city. The Chicago Tribune was brought into court by the city officials after it had severely criticised the conduct of the city's affairs by the "Big Bill" Thompson administration. It would be a pretty safe guess to say that "Big Bill" was more concerned on the effect of the criticisms upon his political future than upon the financial standing of the city. But be that as it may the question raised is whether or not severe limitations are to be placed upon the right of a newspaper to comment upon the acts of

public officials. If the libel suit goes against the Tribune it will be difficult for the press, or for individuals, for that matter, to discuss freely the conduct of the finances of a city by its officials.

Municipal finances are so closely related to the administration in power that it is difficult to discuss one without involving the other. Heretofore it has been considered that public policy demanded the widest freedom in the discussion of public officers and candidates for office. Only by such discussion can the merits or demerits of officials be brought to public attention.

It will be remembered that Gov. Small, one of "Big Bill's" lieutenants, took the virtual ground recently that the governor of a state was, like the king of old, above the law and could not be prosecuted on the charge of embezzlement, a charge which had been brought against Small. The courts decided that the suit against the governor was not immune from prosecution. The Tribune appears to involve a similar contention. The outcome will be awaited with great interest.

FREMONT (Neb.) *Tribune*, Sept. 27, 1921.

An Important Libel Suit

A case is in progress in Chicago that is fraught with mighty results for the people, and for newspapers in particular. Mayor Thompson has brought suit against The Chicago Daily Tribune for $10,000,000 and against the Chicago Daily News for a like amount, alleging libel damages by each paper in amounts stated. The petition avers the papers are guilty of stating that the City of Chicago was bankrupt, and thus injuring the credit of the municipality. These statements were in criticism of the Thompson administration for the extravagant way in which it was carrying on the government of the city that made it necessary to vote 20 millions of dollars in bonds to pay current expenses.

The Tribune has been called into court first and has filed a demurrer which is at this time before the court. The newspaper's attorney is denying the right of a city administration to bring a suit in the name of a municipality. It is claimed the prosecution of such a suit is a

menace to the freedom of the press, and an abridgment of the right to criticize public officials. Take away from a newspaper the right of publicity in connection with any public administration and its privilege to point out official corruption, you have immediately laid the foundation for the perpetuation of a corrupt government, and with no hope of its dislodgment. If newspaper publicity is to be curtailed how, then, would entrenched corruption ever be dislodged? What protection would the taxpayer have against a plundering gang that would corruptly squander public funds? As it is now, with almost an unlimited right of the press in this regard, it is impossible to stop the rankest plundering of the public treasury. The people cannot afford to have any restrictions in this regard thrown around the newspapers of America.

If this suit is permitted to come to trial, every newspaper in America will be subject to possible embarrassment from the filing of such suits. Suit after suit could be instigated which would bankrupt the publishers to pay lawyers' fees and court costs. A threat of such suits would be an effectual warning to, and restraint against, a newspaper publisher that he could not indulge in the criticism of a government that was spending public funds with an unrestrained hand—even to the point of bankrupting the public treasury. If such suits can be initiated and carried forward, we would have the anomalous situation of the money of the public being used to prosecute the very agency that is the public's only protection against looting public funds and the possible bankruptcy of the political division, whether it be a town, city, or state.

The political gang that has control of Chicago is very powerful, and it remains to be seen whether it can make these attempted law suits stick.

GRAND ISLAND (Neb.) *Independent*, Oct. 1, 1921.

The Johnstown Democrat comments quite to the point in pointing out that if the city of Chicago wins its suit of libel against The Chicago Tribune the effect will be bad on popular government rather than good. The suit is a novelty. Says the Democrat: "Chicago

is suing The Chicago Tribune for ten million dollars on the ground that it was libeled by that publication. The city holds that the Tribune's attacks were untrue, that they tended to impair confidence and undermine credit and as a result had a disastrous effect upon the municipality's plans to borrow money. The point raised is an interesting one. A corporation has redress in law if it is attacked. There was a time when a corporation could not sue for libel. Corporation lawyers had a bill passed in most states that gave the corporation the libel status of the individual. The result is that the city of Chicago comes into court. If the city of Chicago were to win its suit, the entire plant of The Chicago Tribune would be wiped out. Moreover, if the city were to win its suit, no newspaper would dare criticize the financial management of any of our municipalities. The suit, the Tribune says, represents an attempt to throttle the press. And so it is. The case is one that will be watched with unusual interest."

SCOTTSBLUFF (Neb.) *News*, Oct. 15, 1921

An Attempt to Muzzle the Press

The Chicago courts, in sustaining the demurrer of The Chicago Tribune to the libel suit against it by the city administration under Mayor Thompson, have prevented another effort to muzzle the press.

The Tribune has been an able and powerful friend of the people of Chicago in protecting them against the administration of Mayor Thompson. It has fearlessly challenged his methods, has fought his alleged system of looting the treasury, and has been a vigorous friend of good government during the time when good government was apparently undesired in Chicago.

Stung by the many attacks made against him, Mayor Thompson finally instructed his city attorney to start suit for $10,000,000 libel against the Tribune. The courts have thrown out the suit. If the newspapers of the land are to be deprived of the right of criticism, of investigation and of printing the facts about the city administrations, then one of the best means of defense against maladministration in office will be lost. It was not

until papers began to be published and not until the papers were freed from censorship by rulers, that the cause of the common people began to succeed.

Liberty of the press has been one of the most precious rights of mankind. It never is very popular with public officials, especially with a certain kind of public officer, but it has always been the main reliance of the mass of people, in protecting their liberties. It is as inalienable a right as that of trial by jury.

It has been protected again, by the decision of the Chicago courts. It could not well be otherwise. There is no place for the venomous newspaper, the one that prints the sly slur; but there is every demand for the honest, fearless newspaper of true convictions, and the courage to voice them.

LINCOLN (Neb.) *Star*, Oct. 17, 1921.

A decision that was of far-reaching effect in regards to newspapers was that of Judge Harry Fisher, in deciding that the city of Chicago had no cause for action against The Chicago Tribune, in a suit for $10,000,000 for libel. The city alleged that the paper had published an article that damaged the city's credit, by printing false statements regarding the city's credit. The judge ruled that portions of English common laws in this regard had not been inherited by the United States, and that the freedom of the press in this country was in no matter thereby restricted.

YORK (Neb.) *News-Times*, Oct. 17, 1921.

By the decision of Judge Fisher in Chicago sustaining the demurrer of The Chicago Tribune in the suit for damages by the city of Chicago, the principle of the freedom of the press is further sustained.

NEBRASKA CITY (Neb.) *Press*, Oct. 25, 1921.

It is no longer a crime for a newspaper to criticize a city government. The city of Chicago, through its mayor, sued two Chicago newspapers for $10,000,000 because the newspapers had said the city was about to be bankrupted through the machinations of careless or indifferent officials. The mayor declared the newspapers had brought the city into public scandal and

disgrace by publishing the facts. The court held otherwise, however.

PALMYRA (Mo.) *Spectator*, Sept. 21, 1921.

Chicago, always enterprising, is trying something new. The city, as a corporation, is suing The Chicago Tribune and the News for $10,000,000 each for libel. These papers contained many items saying the city was broke, financially, and said other things the Mayor thinks are very detrimental to Chicago's interests. There is little probability of judgment being secured for these enormous amounts, or any other amounts, for that matter. It is not that the city has been damaged by the criticism of the papers but very likely the feelings of the officials running it have been hurt.

KANSAS CITY (Mo.) *Star*, Sept. 26, 1921.

A City Gang Tries Intimidation

What presumes to be the city of Chicago has brought suit against The Chicago Tribune and the Chicago Daily News for libel. In each case the plaintiff asks that damages of 10 million dollars be awarded. The suit grows out of the contention of the city, so-called, that criticism by the defendants of the financial administration of city business embarrassed the city in obtaining loans and was detrimental to the city's credit. The city has brought suit in its corporate capacity.

The Tribune filed a general demurrer against the suit, contending that the city had no case. A hearing to test the validity of the case was begun last Thursday. In a formal statement out of court the Tribune has held that at the time of filing of the suit last December "the city hall machine controlled the mayor's office of Chicago, the Chicago city council and the newly elected governor." The statement further maintains that this political force planned to gain control of the state legislature, the circuit court of Cook County, and in fact to dominate the city and state governments altogether. Only the Tribune, it is contended, was left to fight this threatened domination; and it is in retaliation for this opposition that the machine, assuming itself to be the city, has

brought suit, declared by the defendant to aim at complete destruction of the newspaper and to restrict the due freedom of the press.

The outstanding question to be decided in this case will be whether a city or municipal corporation may bring suit for libel against a newspaper that would involve the virtual annihilation of the newspaper. Counsel for the Tribune has contended that a suit for libel may be brought by a public official or officials as an individual or individuals, but "that the city government as a government, with all the immense power behind it, should not be permitted to prosecute for words merely bringing it into 'contempt, ridicule and scorn' before its citizens, who have the right to change it in form, nature and conduct."

Counsel for the plaintiff, who maintains that the suit is brought by no political party but "by the city and its 3 million inhabitants," answers that these parties are asking "not the suppression of any publication of truth, fair comment or criticism, but that this defendant newspaper should not have the right deliberately, maliciously and falsely to tell lies."

Machine politicians, when under fire for what they have done in their official capacity, always like to insist that the attacks are on the fair name of the city or the state. They think to confuse the public by identifying themselves with the government. So Gov. Len Small of Illinois proposed at first to resist arrest for defrauding the state of funds on the ground that his arrest would interfere with the workings of the state government.

The suits brought by the Thompson machine in Chicago against the two newspapers in the name of the city will be recognized by the public generally for what they are—an effort to intimidate the newspapers from exposing what the gang is doing.

KANSAS CITY (Mo.) *Star*, Oct. 17, 1921.

Free Government Upheld in Chicago

Judge Fisher's ruling in Chicago dismissing the case which the city government had brought, in the name of the city, against The Chicago Tribune, marks another victory for the principle upon whose maintenance our

whole modern theory of government depends. The Chicago officials who sought to break down that principle have only succeeded in making it more secure.

The principle involved was a fundamental one and Judge Fisher's ruling was the stronger and more conclusive of the issue for being based solidly and uncompromisingly on it rather than on a mere legalism. He rested it upon a doctrine that is quite literally the foundation of free government wherever it exists in the world, for if that doctrine had not been established, and if government under whatever form had made secure its pretension to be the arbiter of thought and speech and assembly, all governments today would be autocracies.

The action of the plaintiff, he declared, was not in harmony with the genius, spirit and objects of our institutions. This declaration goes to the heart of the matter. Let it be supposed that any group of public officials, in a city, state or nation, could maintain the doctrine the plaintiff relied on in this case. They could declare themselves to be the city, state or nation, and acting in that capacity could suppress any newspaper that dared to criticize their acts, silence public speech and forbid public assembly. They would, in making good such pretensions, set government back where it was when absolutism in France and England broke up the presses, burned the books, maimed and imprisoned the printers and searched the houses of citizens suspected of knowing how to read.

The power of declaring what shall be printed and read has never been given into the hands of any modern government, and for the best of reasons. It is a power that inevitably tends to destroy freedom. There is a law of libel, and there are proper laws determining what is obscene, immoral and defamatory. These laws are based upon grounds of public policy. But there is no law in America that forbids political discussion, or discussion or criticism of the acts of political agents. There never can be such a law while free government exists.

If public officials need any protection against the press, other than that afforded by the law of libel, they have it in the fact, as Judge Fisher points out, that the power of a newspaper to injure a community or a public official is

limited by the degree of public favor it enjoys. If a newspaper habitually misrepresents the facts, shows animus, unfairness or spite, it cannot retain public confidence or influence public opinion. That is sufficient protection for any public official conscious that he is performing his public duty. To give into the hands of officials who want to conceal their acts the power to silence a newspaper that exposes and denounces them is to thrust the whole public out of participation in its own government and to give that privilege over to any clique powerful enough to seize and hold it.

Judge Fisher has thrown this amazing pretension out of court, and in so doing has rendered a far-reaching opinion, not in favor of The Chicago Tribune alone, but in favor of the American people, the real defendants in the case.

ST. LOUIS (Mo.) *Globe Democrat*, Sept. 26, 1921.

Can Governments Be Libeled?

The question really involved in the $10,000,000 suit which the City of Chicago through its present corps of officials has brought against The Chicago Tribune because of criticism of municipal finances is whether government, whatever its degrees, City, State or Federal, can be libeled under the principles of law that now prevail. Something very close to this question was raised when President Roosevelt directed the prosecution of a New York paper or its responsible heads for criticisms on the purchase of the DeLesseps company's rights in the Panama Canal, but the point was obscured by a contest over court jurisdiction in which the newspaper was sustained. While the Chicago suit can probably have but one ending, we may be glad that it was brought because of the fine argument on the history and present quality of press immunity, submitted on a demurrer in the case by Weymouth Kirkland. The conventional libel argument dwells much on British precedents. Mr. Kirkland brought to general knowledge from the textbooks a decisive American case, that of one Zender in New York who, as far back as 1735, ten years after the royal prerogative of licensing and censoring newspapers

had been abolished in the colonies, was prosecuted for denouncing a corrupt Colonial Governor. He was acquitted and Robert Morris' declaration, quoted by Mr. Kirkland, was to the effect that the result was "the germ of American freedom, the morning star of that liberty which subsequently revolutionized America." The case is one with which all Americans should be familiar.

The Chicago suit is a civil, not a criminal, case. Though a wide latitude is permitted in discussing the acts of individual government officials, it is proper that they should be given a right of action in instances of outrageous and malicious misrepresentation. But the doctrine that government itself, that impersonal entity made up of many collective forces and influences, can institute on its own behalf either criminal or civil action for libel is a most dangerous one. Abuses will arise and do arise of course by reason of government's lack of defense in the courts against misrepresentation, and individuals associated with government may suffer occasional injustice, but any damage resulting is only temporary and truth will ultimately prevail. If unfair criticism could be penalized, a way would be opened to penalize righteous criticism.

Judicial remedies should of course be open to all others, but for the government itself to utilize one of the most powerful of its own agencies, the courts, to draw a line between what is permissible and what is not permissible in criticisms of government would involve many perils. It is a privilege which free governments may wisely forego and in foregoing it they draw to themselves elements of greater strength, not weakness.

ST. LOUIS (Mo.) *Times*, Sept. 26, 1921.

When a City Is Slandered

The people, rather than a jury, can penalize a newspaper which libels its own city. The suit of the City of Chicago—which is really the suit of the Mayor—against The Chicago Tribune should result in victory for the newspaper. The mere matter of the damaging of the municipality from improper utterances of the journal

is less important than the issue of the freedom of the press which is involved.

Fully as vital, however, is the phase represented in officialdom seeking to take to itself the power to punish, which the reading public possesses, and which the reading public quite dependably employs.

For the lying newspaper does not permanently deceive a large portion of its readers. A great majority of the people are intelligent, and are capable of forming cool judgment from facts they discern by sensible measuring of affairs in their visible development. These people know how to discount the prejudiced story, the exaggerated declaration, the innuendo. They know, moreover, when falsehood is being employed, and while their attitude may not seem resentful, they will make their repudiation of misrepresentation felt in good time.

There may be temporary deception where malevolent and undisputed statements continue, but ere long the very bitterness of the course will arouse the suspicion of fair-minded citizenship. Some of the most carefully planned campaigns of falsehood have plainly revealed their purpose as to bring repudiation of the course by the people before the latter understood the real facts. They did not know the truth, but they could recognize lying.

When the good name and the welfare of a community are involved in a campaign of misrepresentation, the unmasking of the liar is especially certain. No loyal citizen wants his home town defamed, and when an editor—carried away by a determination to accomplish his ends through whatever means seem easiest to employ—maligns his city and its defenders, he will be made to feel the displeasure of the people. Their repudiation of his tactics is worth more to the slandered community than any other redress it might obtain.

ST. LOUIS (Mo.) *Globe-Democrat*, Oct. 17, 1921.

A Notable Decision

The libel suit for $10,000,000 brought by the City of Chicago against The Chicago Tribune has been thrown out of court. The city, through its officials, contended

that the publication of a statement that Chicago was bankrupt made it impossible to sell municipal bonds and was libelous. Circuit Judge H. M. Fisher sustained the demurrer to the suit, holding that there was no cause of action.

Another precedent which will be valuable in determining more exactly what constitutes the freedom of the press has been set by this decision. But the suit was peculiarly lacking in any justifiable "cause of action," alleging that interviews quoting several Aldermen as saying that the city was bankrupt were libelous, and that the newspaper, not the officials who were interviewed, was the instrument of the misrepresentation. It was, moreover, directed by officials who were capable of personal resentment toward criticism of their administration, but in the name of a government itself impersonal and distinct.

Weymouth Kirkland, attorney for the Tribune, cited in his argument a notable libel suit in the early history of the country, in which a New York publisher named Zender, in 1735, was prosecuted for denouncing a corrupt Colonial Governor. He was acquitted, and a most significant principle of American thought and legal enactment, that of the immunity of the press from domination from any source, whether a power within the government or without, had its beginning. This principle has not been allowed to deteriorate. Sedition is without its boundaries; criticism of government and government officials is not.

Those who may be dealt with unfairly, or falsely accused, and who are actually the objects of libel, should not be left without means of recovery; but this was not true of the City of Chicago in its suit against the Tribune. The court said that the suit was not in accord with the "genius, spirit or objects of our institutions." The newspaper is one of these institutions. It has helped much in the organization of modern society. The contact of today between people and nations is mainly of its creation. Complexities that now adhere to every department of life would permit of endless abuse if the right of the press to free speech were abridged. This was recognized by the court in the suit against the Tribune. The decision adds weight to precedents al-

ready established and makes it clear that the freedom of the press is as indispensable now as in the eighteenth century.

ST. LOUIS (Mo.) *Post-Dispatch*, Oct. 18, 1921.

The Press Must Be Free

Judge Fisher's decision in the $10,000,000 libel suit of the City of Chicago against The Chicago Tribune is a sweeping assertion of the right and duty of newspapers to keep the public fully informed of the conduct of the Government and of public officials and to criticize official and governmental acts which in its opinion are detrimental to the public welfare.

The judicial opinion is such a clear and comprehensive statement of the functions of a newspaper as the guardian of public interests and the instrument by which the public is kept informed of all things necessary to enlightened opinion and judgment on the conditions of society and governmental acts, that it ought to be universally read by the people. The Judge forcefully defines the right of the newspapers to publish all facts bearing upon the public welfare and to comment upon them for the purpose of informing and directing public opinion and thus unifying and crystallizing it for action against the bad and for the good.

The only conditions which govern the liberty of the press are the honesty and sincerity of its purpose and the conscientious and reasonable care exercised by the newspaper in ascertaining the truth and expressing its own opinion. The object must be the public welfare and never the injury of the public official whose conduct is subject to exposure and criticism or detraction of the administration whose acts are condemned. While the Judge's comments upon the functions of newspapers are highly interesting and instructive, a few paragraphs on the main point at issue show the scope of the decision:

> Stripped of all the elaborate argument in the confusion of which the question for decision might look difficult, the fact remains that, if this action is maintainable, then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of

everyone who dares to print or speak unfavorably of the men in power. * * *

The freedom of speech and the press was, at the very inception of our Government, regarded as indispensable to a free state. * * *

While good reason exists for denying a publisher the right to print that which he cannot prove against an individual, and recklessly to pry into his personal affairs, defaming his character and reputation, no reason exists for restraining the publication against a municipality or other governmental agency, of such facts, which, as Judge Taft puts it, it is well that the public should know, even if it lies hidden from judicial investigation.

The Chicago suit differs from previous suits of this character in that it was brought in behalf of a municipality as a whole as representing the interest of citizens and not by a public official. The courts have sustained the rights of the press to publish facts bearing upon official conduct and to comment thereon with reason and sincerity and the decision establishes its right to criticize municipalities and all other governmental agencies whenever in its opinion the public welfare requires it.

Judge Fisher's able exposition of the functions of the press as a public guardian and his assertion of its freedom to publish facts and express opinions concerning governmental policies and conditions and official acts is peculiarly timely and valuable in view of the efforts during and since the war to muzzle and control the newspapers. He points out the danger attending any attempt to gag or intimidate the press.

Columbus Dispatch, reprinted in
ST. LOUIS (Mo.) *Post-Dispatch*, Oct. 24, 1921.

Chicago Tribune's Libel Suit

The city of Chicago, as represented by the administration of Mayor Thompson, recently brought a $10,000,000 libel suit against The Chicago Tribune, based on its criticisms of the city government. It was alleged that these criticisms were hurting the credit of the city, lowering the market value of its bonds, keeping business men from the outside away from it, etc., for all of which, reparation was demanded in the sum above mentioned. To this declaration in Judge Fisher's court the Tribune

entered a demurrer, denying the right of the city to bring suit for libel on the basis of newspaper criticism. This demurrer was fully sustained in a decision rendered by Judge Fisher a few days ago. To have done anything less would have been to strike a deadly blow at the legitimate freedom of the press in one of its most important functions—the searching out and exposure of inefficiency and corruption in public office. Deliberate disregard of truth in this function brings to the offending newspaper its own punishment in loss of influence and standing with fair-minded people. To prevent such criticism through the machinery of legal prosecution, even though the right to criticize be occasionally abused, would lay the foundation for a dozen evils in an ineffectual attempt to remove one.

MACON (Mo.) *Chronicle*, Oct. 17, 1921.

There's one part of Chicago Mayor "Bill" Thompson can't run. That's the judiciary. With his case against The Chicago Tribune and The News thrown out of court and his protege, Governor Len Small, facing trial for embezzlement, "Big Bill" is probably thinking the law is the main stumbling block in the way of making this a happy world.

MACON (Mo.) *Chronicle*, Oct. 20, 1921.

If men like Mayor Bill Thompson of Chicago could recover from newspapers that criticized them and their administration, then newspapers would be of no earthly use and the municipal clique could run things in their own way. The restraint imposed by publicity keeps some men apparently honest.

SPRINGFIELD (Mo.) *Leader*, Oct. 17, 1921.

Tribune Libel Suit

The suit for $10,000,000 brought by the city of Chicago against The Chicago Tribune for alleged libel was thrown out of court Saturday by Circuit Court Judge Harry M. Fisher. Judge Fisher upheld the demurrer filed by the Tribune to the suit. The suit was based on statements made by the Tribune that the city was bank-

rupt, which officials held injured the financial status of the city and it was unable to dispose of bonds.

This shows how Bill Thompson is using the city as a personal plaything. The Tribune's charge was a reflection on Thompson and not on the city. The city is in a bankrupt condition as a result of Thompson's incompetency. Thompson, as a result of charges against himself, puts the city to the expense of bringing a personal law suit for himself. This alone gives some idea of why Chicago is broke.

DENVER (Colo.) *Times*, Oct. 19, 1921.

Off the Pedestal

Thin-skinned office holders have seldom been led into a more ridiculous predicament thru "injured pride," whatever that may be, than the administration of the city of Chicago in seeking to obtain $10,000,000 in damages from two newspapers for alleged libel against the municipal corporation.

The action was strictly on a par with the "divine right of kings" theory enunciated by Governor Small, also of Illinois, when he tried to escape arrest last summer and invoked an archaic argument for which the American public had only hoots and derision.

Last week a Chicago judge sustained the demurrer of the newspapers involved in the damage suit and dismissed the action against them as being "not in harmony with the genius, spirit and objects of our institutions."

The outcome was inevitable and the suit served merely as a temporary vehicle for official spleen against the defendants. It revealed the fact that some lawyers are quite without a sense of humor and are not unwilling to appear foolish if only the consideration is adequate.

For an American city the action of Chicago was indeed a strange precedent. To allege libel for criticism of its acts as a corporate body was bad enough, but to seek redress under the common law of England was to invite public hilarity. Had the city's suit been sustained, doubtless its next act when under fire would have been to claim the protection of King George.

The one redeeming feature of the farce was the fact that Chicago has enough shame to feel hurt at anything that might be said about her in an official capacity. This is a sign of regeneration. The public is more or less reassured to know that her feelings have been hurt $10,000,000 worth. Everything is up these days, even the value of rasped municipal sensibilities. No doubt the newspapers will evince a more tender attitude in the future, so that the object of their unkind remarks may not die of humiliation.

We can imagine what would have happened to the newspapers of the United States had shrinking Chicago won her slander suit. Every mayor in the country would have ordered his city attorney to start proceedings at once against the bete noir of the administration. Free speech would have been litigated to death. What wouldn't city hall in Denver have done to us! Oh, boy!

Judge Fisher, who opined that we have enough law over here without bringing over any more of the old English common or garden variety and Judge Smith, who last summer gave a judicial pin prick to the bubble of the divine right of kings fallacy, have both done the public a good turn. It will be a sorry day for this nation when its newspapers are muzzled and any unit of government may set itself up on a gilded pedestal and announce that it is above honest criticism.

TRINIDAD (Colo.) *Chronicle*, Oct. 20, 1921.

Chicago Tribune vs. City

Among many recent cases of individuals or corporations trying ineffectually to recover from newspapers for alleged damage caused by an endeavor to protect the common good, or for publication of news items affecting them, that of The Chicago Tribune is preeminent because of the peculiar features of the case.

Here was a strongly intrenched political machine charged with dissipating the public funds by a newspaper, in its undoubted province of watching and conserving the rights of the public, in an attitude that had many indications of revengeful spite.

In sustaining the demurrer and dismissing the suit the judge gave utterance to an axiomatic truth when he said

that harm would certainly result to a community from an officialdom unrestrained by fear of publicity.

During the war the newspapers of the country were a unit in supporting the propaganda of Americans. Propaganda may have become a habit with some of them and reached into other fields without warrant. For in such cases there is a remedy, but that is entirely a different matter from restraining rightful expression of opinion.

The freedom of the press is so important a fundamental of democracy that it was written in one of the greatest safeguards of liberty—the Constitution of the United States.

It is a matter of felicitation, not only among newspapers, but among all citizens of the country, that efforts so far to undermine the right of free speech have been fruitless.

Without an absolutely free press, free to record news in an impartial manner, and free to safeguard every interest of community and country, to fearlessly uphold the powerless against the powerful, with the power to collate and give united force to public opinion, all the words of the founders and preservers of the Nation would go for naught.

Especially must the press be safeguarded against the encroachment of political organizations, which, primarily, are promoted by selfish interests.

Both the press and those who would restrict its province must finally stand at the bar of public opinion—the supreme court of their actions.

The press is unafraid!

STOCKTON (Cal.) *Independent*, Nov. 3, 1921.

Press and Government

Popular rights and political efficiency are both upheld by the decision of a Chicago judge, throwing out of court the $10,000,000 suit brought against The Chicago Tribune by the mayor of the city. The action was inspired by criticism of the mayor. Though drastic, the court held that such criticism was a legitimate function of a free press—a verdict in which public opinion will probably concur, regardless of the character of the litigants themselves.

The need of freedom in printing news and commenting on it becomes greater as communities grow and public business, like all other business, becomes more complex. The newspaper is a sort of responsible middleman between the public and its officials, representing their acts and holding them to strict account. It is a great power which the newspaper wields, but there is little danger of its being abused more than momentarily. Its work is all public, and so the public itself is in position at all times to hold it to its duty, prospering it by support or destroying it by disapproval.

The press has become, therefore, a powerful though unofficial organ of government. Intelligent popular government would be impossible without it. Continuous progress in government is possible mainly because, while public servants come and go, the press is permanent, forever on the job of public service, translating public will into public action.

NOGALES (Ariz.) *Herald*, Sept. 24, 1921.

The Freedom of the Press

The Chicago Tribune is being sued for $10,000,000 by the City of Chicago for libel. The Herald understands that the officials of the city, swayed by partisan politics, maintain that the Tribune injured the credit of the city and made it impossible to dispose of bonds necessary to the welfare of Chicago.

Every newspaper in the nation is interested in the outcome of the big suit. Never before in the history of American courts has a similar case been tried.

The suit is a deep thrust at a free press. In the opinion of The Herald it is an attempt of partisan politics to muzzle the voice of all opposition.

If the City of Chicago is really afraid of publicity then why did it bring the suit? The Tribune publicity localized the matter. The suit has made it a national affair. The city government of Chicago is far more responsible for widespread publicity than The Tribune.

All of the grandiloquent bluff and bluster of Chicago, all of its spouting and ostentatious rag-chewing cannot prevent the plucky press from speaking as it should. All the protests and crocodile tears of all the politicians in

Chicago cannot down the pen which is wielded to expose graft and corruption.

Chicago had a black eye before the Tribune began to fight the city government. It is known far and wide that the controlling politicians of the Windy City punished with fiendish ferocity those who refused to bow to their shrine. Ward-heelers and soap box orators have had their day in Chicago and an electric wave of joy swept around the State of Illinois when the plucky Tribune began its "spotlight" campaign. The Tribune and the Chicago Daily News did not dance to the music of the crowned creatures of Chicago.

The suit for $10,000,000 against the Tribune, if won, will smash that great newspaper. It will mean that no more can the press voice complaint to the people against a government, whether it be city, county or state. It will mean that the star of city government can be shifted to suit the pleasure of politicians.

It must not be!

PHOENIX (Ariz.) *Gazette*, Oct. 29, 1921.

Freedom of Speech and Press

In his decision sustaining the demurrer of The Chicago Tribune to the $10,000,000 libel suit brought by Mayor Thompson and certain other officials of the city of Chicago, Judge Fisher, of the Circuit court of that city, has struck a decisive blow for real Americanism through freedom of speech and freedom of the press.

Stripped of confusing details, the libel suit was filed against the Tribune in the name of the city of Chicago because that newspaper had attacked the mayor and city officials, charging that their administration had bankrupted the city.

Conceiving that they would be able, at one blow, to vindicate themselves and punish the newspaper which had the temerity to prefer charges against them, the mayor and his associates brought the suit for the staggering sum which, if they were successful in their fight, would have resulted in the crushing of the Tribune out of existence. But Judge Fisher was not to be led astray from the real issue, the attempt to fasten a muzzle upon

the press, and with wonderful directness cut straight to the heart of the matter. This is what he said:

> Stripped of all the elaborate argument, in the confusion of which the question for decision might look difficult, the fact remains that if this action is maintainable then public officials have in their power one of the most effective instruments with which to intimidate the press and to silence their enemies. It is a weapon to be held over the head of everyone who dares to speak or print unfavorably of the men in power.

Continuing in this strain Judge Fisher pointed out that freedom of speech and of the press was regarded as indisputable to a free state at the very inception of the American government. And in this he unquestionably puts his finger upon the heart of the whole matter. Americans today need definite knowledge as to the things making up our complicated and involved social organization, and it is the sacred duty and function of the newspapers, which are expert in the collecting and disseminating of such information, to keep the people informed as otherwise the public would be utterly helpless. Going deeper into this phase of the matter Judge Fisher said:

> The press has become the eyes and ears of the world, and, to a great extent, humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be the rich reward of the unscrupulous demagogue.

The Gazette knows full well that neither Judge Fisher nor any other honorable judge in the courts of justice of these United States would have any more sympathy with newspapers which indulge in scandals and defamations than is possessed by the bitterest and most vicious assailants of the press. Neither has this paper any patience with such publications or such policies. There can be no excuse or extenuation of conduct of this sort. Yet the Gazette firmly holds to the contention that the remedy for such a course is not to be found in a new law which would suppress publication.

Nobody has a right to mistake freedom for license, of course, and the laws protecting the individual from libel are clearly defined and easily to be understood. Further, the Gazette holds that they should be rigidly observed by every self-respecting newspaper.

It would, however, be absurd if the law of the land were so interpreted by the courts as to protect the unscrupulous public official from exposure through the columns of the press, and this paper, for one, is glad to know that free speech and free press continue as bulwarks of the constitutional liberty and freedom of the American people.

AMARILLO (Tex.) *Tribune*, Sept. 29, 1921.

The Chicago Tribune Suit

The suit of the City against The Chicago Tribune for ten million dollars damages, if successful, will mean the death of the Tribune, because a judgment of that size could be satisfied only by sacrificing the newspaper.

The suit is said to have grown out of criticisms of the city administration published by the Tribune, charging extravagance and waste in the expenditure of public money. It would be impossible to judge the merits of the controversy at this distance, but it may be assumed that no jury will be found that will give the City the judgment asked for, even though the newspaper may have overstepped the facts in its published criticisms. If this is true, it is quite likely that the suit was brought for political reasons.

But if the City should win its suit a serious blow will have been dealt to the freedom of the press. Newspapers with the courage to denounce extravagance and graft in high places are none too numerous and the elimination of a powerful paper like The Chicago Tribune would be held up as a warning against published criticisms of public officials.

Freedom of the press is essential in a democracy. The people are quite as conscious of this fact as are the publishers of newspapers and they can be counted on to resist any abridgment of this right. Honest officials have nothing to fear from honest criticism and no newspaper can long survive unless it sticks to the truth.

DALLAS (Tex.) *Morning News*, Sept. 29, 1921.

Chicago Turns Plaintiff

The city of Chicago is suing a pair of newspapers for printing the statement that Chicago is bankrupt. It is claimed that the city's financial arrangements were embarrassed by the statement, and damages running up into the millions are asked. Technically speaking, it probably couldn't be true that Chicago is a bankrupt. At least the city hasn't gone into Federal or State courts and submitted to genuine bankruptcy proceedings. It

is probably a fact also that Chicago is not insolvent, so long as its taxing power remains. Indeed, courts have been known to compel a debtor municipality to levy a tax commensurate with its obligations.

These considerations may all have been known to the newspapers who made or circulated the statement that Chicago is bankrupt. But so must they have been known to every intelligent person who read these alleged statements. In fact it is difficult to understand how they could be read without being interpreted in the light of these considerations. In view of this aspect it may turn out that, even in case of a verdict against the defendant newspapers, the award would be nearer the price of a soda fountain drink than of a battleship.

The actual damage done to Chicago can scarcely have been anywhere near the amount claimed. The suit, therefore, wears the guise of an attempt to discipline newspapers either for a misstatement which can not have hurt the city greatly with those who dealt with Chicago on its credit, or else for a loosely worded statement of criticism aimed at the administration of Chicago's government. Manifestly, if Chicago is going to sue in her corporate capacity every paper that ever published anything derogatory to William Hale Thompson and his management of finances and affairs, there's going to be a long litigation calendar ahead.

Probably there is not a city in America where a strong and vigilant and critical political opposition is more needed than in Chicago. If that great city, with the maze of corruption and blatant vice with which its very name is associated over the country, is ever to regain a reputation which will be an asset to it morally and financially, the redemption will never come through muzzling or disciplining outspoken critics of the city administration.

From the Brooklyn Eagle, reprinted in
FT. WORTH (Tex.) *Record*, Oct. 9, 1921.

Chicago as a municipality has brought two $10,000,000 suits, against the Chicago News and The Chicago Tribune, respectively, for libel damages. The assertion is made that attacks on the financial administration of the civic corporation's affairs under Mayor Thompson damaged the

credit of the city, which is entitled to recover. So far as we know, this is an utterly unprecedented proceeding and is of course dictated by the mayor. No such action could be prosecuted in New York state, and it is almost a safe prediction that the suit will be thrown out by the courts of Illinois. A city has such powers as have been granted to it by state lawmakers. The power to bring libel suits is not included in any state of the union in city charters. For this there are excellent reasons. First, the freedom of criticism of city administration is a right of all taxpayers. Second, if the politicians mismanaging a municipality could sue critics not at their own expense but at the expense of the treasury, prosecution would be not merely possible but probable.

FT. WORTH (Tex.) *Record*, Oct. 21, 1921.

Victory for Taxpayers

Not only the freedom of the press but the rights of the public in a very large way, the right of the taxpayer to know all facts of record that show how public affairs are handled, were involved in the suits brought against The Chicago Tribune and the Chicago Daily News by the city of Chicago. These suits were for $10,000,000 each, the charge being that the newspapers had libeled the city and harmed its credit so it could no longer find ready sale for its bonds. While the city of Chicago was named as the plaintiff in the suit, the moving spirit in the litigation was William Hale Thompson, mayor of Chicago, whose methods of handling municipal affairs, had been criticized in a vigorous fashion by the newspapers. It was a novel suit, probably the first of its kind: the amount named was the approximate value of the papers. It had importance so far-reaching that it contemplated a new order for this country.

Recently when the suit came up for hearing, brilliant lawyers appeared for each side. The Tribune suit came up first. Its attorneys had filed a demurrer to the petition. In a general way the filing of a demurrer means that, even if all facts alleged in the bill of complaint be true as stated, they would not constitute a cause of action. It raised the full question of whether the plaintiff is in court with a valid cause or not. The court sustained

the demurrer, saying that all the facts stated in the very lengthy bill of complaint did not state a cause of action for a suit in court.

Then the court went further, declaring the suit was not in harmony with the spirit of the age. Rather it recalled the days of monarchical and despotic rule The Tribune had printed facts from the records of the city, had told the truth of city management, albeit with some vigor and persistence. Had the Tribune and the News lost their suits they would have been bankrupted and put out of business, and other papers would have had their existence threatened if they offended the temporary occupant of the city hall. The existence of a free press was at stake. Newspapers may have their faults. They are but the product of human hand and brain, but for any court to have said that newspapers could not tell the story of a city misgoverned and mismanaged would have been to turn government over to exploiters and gag those who would keep the public informed. The defeat of Thompson is a triumph of public right.

BEAUMONT (Tex.) *Enterprise*, Oct. 16, 1921.

A Lost Libel Suit

A Chicago judge Saturday dismissed the suits of the city of Chicago against the Tribune and Daily News seeking punitive damages for libel in the sum of $10,000,000 in each case. The city had, the court held, no cause of action. The suits had been brought because of publication in the two papers of matter alleged to have injured the city's credit, but were in reality the outgrowth of the fight against Mayor William Hale Thompson.

In refusing to allow the petitions to be amended the court held that the English common law limiting the freedom of the press had not come down to America as a legal standard, and that the suits in point were not "in harmony with the genius, spirit and objects of our institutions."

Determination of these cases will be of interest to newspapers everywhere, as well as to the people who perceive in an untrammeled press the best safeguard for the liberties of the citizen.

LAREDO (Tex.) *Times*, Oct. 17, 1921.

An Important Decision

Some time ago the city of Chicago filed a suit for $10,000,000 damages against The Chicago Tribune, charging libel. It seems that the administration considered articles concerning the city management as damaging to the character of the officials and the suit was instituted, the amount claimed being based on the amount of the fortune of the proprietor of the Tribune rather than on actual damages.

Judge Fisher the other day sustained the Tribune's demurrer to the suit and refused to permit the city to amend its petition. In rendering his decision he said that portions of the English common law and statutes which restricted the liberty of the press had not been inherited by this country and added: "This action is not in harmony with the genius, spirit and objects of our institutions."

The principle upon which a municipality bases its right to demand redress for hostile criticism is the same as that upon which is founded the doctrine of *lese majesty*. It is opposed to our free institutions, because the governments are the creature of the people and do not exist by divine right.

Our declaration of independence says: "Governments are instituted among men, deriving their just powers from the consent of the governed," and upon this declaration was formed our constitution, the first constitution of a free people to be committed to writing.

No government is above criticism, and particularly not our government, which is created by the vote of the people, who have a right to elect another government in its place whenever they may see fit.

Above all is the federal government, which is formed by the union of the states; then comes the state government, and then the town or municipal government, the charter for which political entity is granted by the state, in conformity with laws enacted by the representatives of the people.

This is the first time a municipality has attempted to sue a publisher for utterances considered libelous, and the decision of the court is far-reaching in its effect. It

establishes that the city administration has no right to sue for libel as an entity, however any of the individuals in the administration may be aggrieved personally.

There have been severe criticisms of the Chicago city administration, not all of them confined to the Chicago papers. Perhaps no mayor of Chicago has ever received the adverse criticism directed against William Hale Thompson, not even Carter Harrison in the balmy days of his rule, when Bathhouse John and Hinky Dink were at their zenith.

But if Mayor Thompson is aggrieved he has the right to bring an individual suit against any person or corporation, and the attempt to use the prestige of the city government to back the petition in the present case was of no avail.

Much of our law is based on the English common law and on statutes of ages past and gone. But any part of common law which relates to the monarchy or a privileged class necessarily must fail when translated to our code, for it is based upon something which we do not recognize—the superiority of one person or class to the rest of the people, and no government is above the law, any more than a person.

The trial of the governor of Illinois is another case in point in which the old English common law was invoked in the attempt to base a defense not permissible under our law. "The king can do no wrong," says the old English law, while here every man is a sovereign and has equal rights with another.

Our public domain is held in the name of the people, our prosecutions are brought in the name of the state or the commonwealth, and it would seem strange for an American to be told that the municipal government claimed the powers of a sovereign in claiming to be above adverse criticism on the part of any of the people.

SAN ANTONIO (Tex.) *Express*, Oct. 18, 1921.

Incalculable Harm to the Community

"This action is not in harmony with the genius, spirit and objects of our institutions. * * * The newspaper cannot long indulge in falsehoods without losing that confidence from which alone come its power, its prestige and its reward.

On the other hand, the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

Thus Judge Harry Fisher, in sustaining The Chicago Tribune's demurrer to the "City of Chicago" (vide the works of "Big Bill" Thompson) "libel" suit for $10,000,000, on the allegation that the Tribune (and the Daily News) have printed "false statements" regarding Chicago's financial standing and thereby "injured" the municipality's "credit."

The court's decision is that the "City" has no cause of action; that it is a public corporation, not a private person susceptible to defamation; and that the "City" cannot amend its petition in the suit.

Common sense raised the expectation of that decision. As to the history, the theory and the law of the rights involved—constitutional and statutory—Judge Fisher's exposition "hath been most sound." Nevertheless, one who considers the City Hall and other municipal causes of what the Tribune, the Daily News and other local newspapers are impelled to say, day after day, about the municipality's conduct, as well as "credit," must wonder whether Chicago's officialdom of the Thompson-Lundin ring is at all "restrained by fear of publicity."

For one of many examples of "credit," it was neither the Tribune nor the Daily News, but Thompson's own chief of police, who lately announced that half his force were either criminals—bootleggers—or in league with this criminal element!

Howbeit, Heaven help Chicago—even more—were its press inoculated with tetanus germs, per such a "libel" suit! Its reformative struggle—quite in accord with "the genius, spirit and objects of our institutions"—will go on. The press is doing splendid service to the community in thus preparing it for the next municipal election.

GALVESTON (Tex.) *Tribune*, Oct. 20, 1921.

Judge Fisher of Chicago has no doubt robbed his city of the damages the municipality would have received in its suit against The Chicago Tribune. Had the case gone to a jury there is little doubt that the verdict would have been for at least one cent damage.

There is much in contention of The Chicago Tribune's attorney in the $10,000,000 libel suit filed against that paper by the Chicago city government that a victory for the city would mean the muzzling of the press insofar as criticism of city officials goes, for the whole suit, which was engineered and filed by Mayor William Hale Thompson, is predicated upon the fact that the Tribune's animadversions against the financial condition of Chicago were really aimed at the administration of Thompson—whose administration has not been such as to engender any great amount of pride among the best citizenship of the Western metropolis. So far as the record published shows, there has been no evidence introduced to dispute the Tribune's charge, to-wit, that the city was "broke," its income frittered away in more or less spectacular stunts and in taking care of the Mayor's political supporters. The contention of the city seems largely to be that but in charging the city was embarrassed financially the Tribune harmed the city's credit and made it impossible to sell its bonds—a contention that is certainly far-fetched since with the taxing power in hand and billions of property subject to taxation, there could not possibly be any question as to the city's solvency so far as bond-holders go nor of the city's ability financially further to tax its citizens to raise the money for interest and sinking fund. Mayor Thompson, opposed by practically every paper in Chicago, has long sought some way to "get back at them" for their opposition. Evidently he believes that in his little $10,000,000 libel suit against the Tribune—a similar amount, we believe, is sought from the Chicago News—he has found the way. The defense's demurrer should be upheld, because if city officials and city administrations can be put above criticism by newspapers it will be a sad day for the taxpayers of every city in the country.

KNOXVILLE (Tenn.) *Journal-Tribune*, Oct. 17, 1921.

A City Not Libeled

Not long ago, "Big Bill" Thompson, mayor of Chicago, brought suit against two of Chicago's leading daily papers, for ten millions of dollars alleged damage to the city due to what the papers had printed.

The facts are, the papers did severely criticise "Big Bill's" management of the city's affairs, or, more properly speaking, mismanagement. And it is only natural for him to thus assume, as he has persuaded himself, he is the city of Chicago, all alone by himself. One of his calibre is capable of imagining vain things.

But the judge before whom the case would have been tried, had it come to a trial, did not share the views of the complainant in the case. He held that the articles printed in The Chicago Tribune were neither seditious nor libelous. Judge Fisher held that libel is applicable only to private persons or corporations, and that the city might not sue for libel "unless by some legal fiction the plaintiff is to be regarded for the purpose of this suit as a private person, in which event the publications are defamatory and libelous would lie."

Had the judge stopped with that and gone no further, that of itself would have been sufficient to knock "Big Bill" out of the box, but as if insult added to injury, assuming that such a man is capable of either insult or injury, the judge didn't stop with that, he went on further and spoke words of praise of the press that indulges in criticism of public officials. And the judge proceeded to further say:

"This suit is not in sympathy with the genius, spirit and object of our institutions. It fits rather with the genius of rulers who conceived law not in the purity of love for justice, but in the lustful passion for undisturbed power."

If "Big Bill" or any to be found anywhere, can derive comfort or solace from anything found in the ruling of this judge, let them have all the comfort they can get out of it.

MEMPHIS (Tenn.) *News-Scimitar*, Oct. 24, 1921.

Trivial Lawsuits

Declaring that Mayor Thompson's $10,000,000 libel suit against The Chicago Tribune was not in harmony with the genius, spirit and objects of our institutions, Judge Fisher of the Circuit court last week sustained the demurrer of the defendant and consigned the case to the ash can.

A few more decisions of this nature would have a wholesome effect, not only upon officials who make a practice of suing when they are exposed, but also upon lawyers who make a practice of reading the newspapers for some unintentional error upon which to base a libel suit.

It was never intended that the libel laws should prevent a journal from printing the news or exposing a corrupt official. It was not intended that a newspaper should be penalized for an unintentional error, which it is always anxious to correct and usually is quick to do so.

"The press has become the eyes and the ears of the world, and to a great extent its voice," as the judge stated in the outset of his opinion dismissing the suit. Continuing his description of the function of a newspaper, Judge Fisher declared:

"It is the substance which puts humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It tears us away from our selfishness and moves us to acts of kindness and charity. It is the advocate constantly pleading before the bar of public opinion. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. Trade and commerce depend upon it. Authors, artists, musicians, scholars and inventors command a hearing through its columns. In politics it is our universal forum. But for it, the acts of public benefactors would go unnoticed, impostors would continue undismayed, and public office would be the rich reward of the unscrupulous demagogue. Knowledge of public matters would be hidden in the bosoms of those who make politics their personal business for gain or glorification."

Some officials do not respect the right of the public to be informed concerning the public business. The worthy citizen takes an interest in public affairs as he takes an interest in personal matters, and is anxious to hold the so-called public servant to a strict accountability for his stewardship.

The individual or the newspaper may comment or criticize as it desires, in order to obtain service in conformity with the individual's conception of public good,

so long as unlawful means are not advocated and a breach of the peace is not incited.

Articles objectionable to some officials not only are within the right of the paper, but frequently it is performing a public duty in printing them.

LOUISVILLE (Ky.) *Herald*, Oct. 16, 1921.

The decision of Judge Harry Fisher, sustaining the demurrer of The Chicago Tribune in the suit brought by the city of Chicago claiming damages to the tune of $10,000,000, is a decision first of all for that good government of which a free press is, beyond all else, the bulwark. The declaration that any precedents in English common law restricting such liberty could not be held to have descended to American practice is a very healthy one and has applications beyond the immediate case. Decidedly, a blow was struck for the protection of the people.

FRANKFORT (Ky.) *State Journal*, Oct. 18, 1921.

Libeling a City

No newspaper would have any desire to libel the city in which it is published. "Ne'er a peevish boy breaks the cup from which he drinks in joy," observes the great Persian poet, Omar.

The welfare of a newspaper is so dependent upon the welfare of the center of population in which it is published that only a fool as the manager of a newspaper would want to slander the city. The Chicago Tribune's victory in the suit for $10,000,000 for libel of Chicago was expected. The outcome of the case is a victory, but not a surprising one, for the press of America.

By the way, no officer of any city imagines that any newspaper could have an interest in maligning the very source of its meat and bread. Criticising a city administration is a thing apart from libeling a city. The administration in Chicago winced under criticism of conditions for which the Tribune and the News held it responsible, and sought vindication in a damage suit. The right to criticise an administration, and its results, fiscal and otherwise, must exist if liberty is to be maintained.

VALDOSTA (Ga.) *Times*, Sept. 23, 1921.

The Chicago Tribune has the record in the matter of libel suits for vast sums brought against it. Henry Ford claimed a million and now the city of Chicago demands ten millions on the ground that its credit has been injured by the Tribune's discussion of the management of Chicago's finances. If every American newspaper that at one time or another has criticized the management of the finances of its city or town were convicted of libel, practically the whole American press would be threatened with bankruptcy.

SAVANNAH (Ga.) *News*, Oct. 17, 1921.

When Newspapers Criticize

Nobody should be surprised by the decision of Judge Fisher in the suit of the city of Chicago against the Tribune of that city for $10,000,000 for printing of alleged false statements regarding Chicago's financial standing to the detriment of the city's credit. Judge Fisher decided in favor of the newspaper on the ground that "this action is not in harmony with the genius, spirit and objects of our institutions." The decision is of much importance throughout the whole country because the suit was the first on record in which a municipality sought to restrict the right to criticize its acts as a corporation.

Newspapers should have a very free hand. If mayors could hamper them by saying what they should print, what they should be permitted to say about municipal corporations, the time would come when the public would be in slavery to a few politicians. Many indeed are the men in brief authority who seek to prevent newspapers from criticising their acts. The Chicago case is one in point. Mayor Hylan of New York actually issued a proclamation aimed at newspapers in that city and suggested to merchants that they should not advertise in certain papers. All this is an old story with the newspapers; they see mayors come and mayors go, and they know just about what to expect from them when these men in office for a time, perhaps over-impressed with their own importance, seek to censor or punish newspapers.

The Chicago decision shows the "little kings" where they belong. Let them attend to their business, which is the public's, without playing too much politics, and they won't have to worry about newspaper criticism. A man in office who deserves praise will get it sooner or later; and the man in office who deserves to be adversely criticized will get that, too, however much it may wound his self-love.

JACKSONVILLE (Fla.) *Times Union*, Oct. 23, 1921.

The Press, the Public and Officials

Everywhere are newspapers as well as public officials, and, of course, people, the public, or there would be no need of either of the former. Because there are people, especially those who desire to be informed as to current events and happenings, in which they are more or less intimately concerned, there are newspapers. To serve the public is the function of these modern purveyors of news and comment thereon, including publicity with reference to the doings, or the failure to do, in the case of public officials, some of whom are known at times to object to being made the subject of newspaper publicity and observation and, if needed, criticism.

Quite recently the city of Chicago brought suit against two prominent newspapers of that municipality, claiming damages for a very large amount in each case. There is reason to believe that the suits were instituted by politicians of that notoriously misgoverned city out of revenge for exposures with reference to official delinquency. However that may be, the judge of the Cook county circuit court, before whom the first of these cases was brought to trial, threw it out of court, holding, in the course of a very important opinion, that—

> The press has become the eyes and ears of the world, and, to a great extent, humanity in contact with all its parts. It is the spokesman of the weak and the appeal of the suffering. It holds up for review the acts of our officials and of those men in high places who have it in their power to advance peace or endanger it. It is the force which unifies public sentiment. But for it the acts of public benefactors would go unnoticed, impostors would continue undismayed and public office would be rich reward of the unscrupulous demagogue.

It will be well for public officials everywhere to make themselves familiar with the ruling, as laid down by the Chicago court, and its judicial opinion with reference to the true functions of newspapers and their rights and privileges under the law. It is not necessary to go far from home, wherever may be one's place of residence, to find public officials, particularly those of the "unscrupulous demagogue" type, referred to by the Cook county jurist, who would be only too glad if the newspapers were not "the eyes and ears of the world," if they did not hear and see and report to the public things that officials would rather should not be made public. And how they would find "rich reward" if the public could be kept from knowledge of what they are doing or are not doing in their administration of public affairs, the people's business! As it is, in too many instances there is sparing of public officials when scathing criticism and severest condemnation is their deserving. And it is only fear of this severer treatment that deters certain officials from "going the limit" in their wrongdoing or the protection of wrongdoers.

HOT SPRINGS (Ark.) *New Era*, Sept. 22, 1921.

The Rights of the Press

Weymouth Kirkland, of counsel for The Chicago Tribune, against which a suit for libel in the sum of $10,000,000 has been instituted by the City of Chicago, in an argument in the case yesterday declared that limits to the freedom of the press have for their object protection of the rights of the individual, but not prevention of criticism of governments or public officials.

In that statement is bound up practically all that could be said regarding the freedom of the press, about which so much controversy has been waged ever since newspapers began circulating. No reputable newspaper will seek to delve into the private lives of individuals, to magnify divorce suits and bring innocent children into the limelight because of the sordid lives of their parents and to hold up to public curiosity and gossip the domestic relations of prominent people. Some so-called "yellow" journals do this. The better class of

journals hesitate to print this class of matter and use it only when the circumstances are out of the ordinary and the people of such prominence as to justify the stories.

But with public officials the case is different. Officials represent the will of the people in governmental affairs, and while reputable journals do not deal with the private lives of officials, their public conduct is a matter of vital consideration. Newspapers have been criticized for delving into public conduct of officials, but Cooley's "Constitutional Limitations" says:

"If newspapers may not publish news with impunity, they may at least discuss with freedom and boldness all matters of public concern, because this is the privilege of everyone. The privilege extends to matters of government in all its grades and branches; to the performance of official duty by all classes of public officers and agents; to the courts, the prisons, the reformatories, the public charities and the public schools."

"This is the privilege of the citizen," declared Mr. Kirkland. "Of the press it is far more—it is the duty. It is the duty required of the press by the public which hold the press accountable for its alert and faithful performance."

MONTGOMERY (Ala.) *Advertiser*, Sept. 24, 1921.

Two Political Curiosities

Mayor William Hale Thompson, of Chicago, has haled the owners of the Chicago Daily News and The Chicago Tribune into court to show cause why they should not pay the city of Chicago $10,000,000 each for "libeling" the community. He charges that their attacks upon his administration have resulted in discrediting Chicago and lowering its financial credit.

Mayor John F. Hylan, of New York, issues a formal proclamation to "the business men, merchants and shopkeepers" of New York in which he recites certain offenses against the city committed by the anti-Hylan newspapers. He says the "hate-crazed" papers have recklessly attacked the police department and done it injustice, and in doing injustice to the police and the city

government harm has been done the city. According to Hylan people would think, from reading the papers, that New York suffered frequently from crime waves, when it does nothing of the sort.

Mayor Hylan regards the situation as rather grave, and he suggests to the business men of New York that they should bring the papers to time by withdrawing their advertising patronage.

No, it is not a hoax either in the case of New York or Chicago. The two demagogues are in deadly earnest. That is the funny part about it all.

Think of our two greatest cities having men like these in their highest places of power!

MOBILE (Ala.) *Register*, Oct. 17, 1921.

Judge Rebukes Plaintiff

Judge Fisher, in his dismissal of the ten million dollar damage suit brought by the city of Chicago against The Chicago Tribune for saying that the city is bankrupt, uttered a profound truth when he declared: "This suit is not in harmony with the genius, spirit or object of our institutions." For a municipality or other political unit successfully to sue one of its constituents for damages would be to win a revenue that is practically confiscation of property. It places a governmental authority in the wrong relationship to the governed. A parent might as well turn on a child or a cow gore her offspring. As the judge said: "It does not belong to our day but rather to the day when monarchs promulgated laws with the purpose of carrying out their lustful passion for undisturbed power." The Tribune is used to damage suits of all kinds but this appears to be unique among them all.

COLUMBIA (N. C.) *Journal*, Sept. 24, 1921.

Free Press Attacked

The suit brought against The Chicago Tribune in the name of the City of Chicago, for $10,000,000 damages for libel, is the most vicious attack upon the freedom of the press that this country has ever seen. Weymouth Kirkland, one of the defendant paper's attorneys, fittingly

characterized it as having the end and motive of securing protection for "entrenched authority from inquiry and criticism."

An unshackled press has always been considered one of the essential elements of a free country. The founders of this Republic recognized it in the Constitution, and sought to insure its existence by writing into that foundation of our liberties a provision that the right of a free press, as the right of free speech and of free public assemblage, could not be prohibited.

The suit against the Tribune, if won by the powers who instituted it, would put out of business one of the largest and most influential dailies in America today as effectively as if it were done by the iron-hand authority of some Prussian censor, for the sum asked is the valuation of the Tribune publishing company's assets. It would set a precedent, nullifying in practical effect the constitutional guarantee, for every deluded little crook who happened to hold an office of authority would immediately seek the same method of protecting himself, however much a criticizing paper might be serving the public.

The laws of libel are very stringent in the various States. If a newspaper makes an unprovoked, unjustified or malicious attack upon the character of any person that person can and should be able to secure redress in the courts. But it is a different matter when an office holder seeks to put a reputable newspaper out of business for criticizing the acts of his administration, or the effects of those acts.

Mayors are elected by the people to serve the people. If John Henry Citizen does not like the way he is served by his duly elected public servant, the constitution gives him the right to say so. And, if John Henry Citizen is the owner of a newspaper, the constitution guarantees him the right also to print what he thinks, and his reasons for so thinking. If John Henry does not own a newspaper, and still wants to tell his opinions to the world, he has the right to write them to any newspaper for publication, if it sees fit.

The suit of the City of Chicago seems to be tainted with the same old monarchical doctrine that Len Small, indicted governor of the State which boasts the Windy

City, sought to use to shield himself from arrest for alleged embezzlement—"The King Can Do No Wrong." The slogan did not save Small from arrest, nor will it serve the officials of Chicago as a weapon for putting the Chicago Tribune out of business.

RALEIGH (N. C.) *News*, Oct. 18, 1921.

Silliness Rebuked

The silliest attempt to suppress honest criticism of any public officers was when the city government of Chicago started a suit against The Chicago Tribune for ten million dollars on the ground that it was guilty of libel in that it had animadverted upon the city administration. Nothing could please unworthy and inefficient public officers better than to have the courts muzzle the press. The absurdity of a city recovering money from a newspaper for criticizing bad government was apparent to everybody except to thin-skinned and incompetent officials. Of course the judge threw the case off the docket.

The best service a journal can render a city like Chicago is to uncover the kind of city government which has afflicted it for some years. If a newspaper is silent when public officials are either corrupt or inefficient, that journal instead of being a public agent of service becomes itself unworthy and advertises its own unfitness.

Criticizing Public Officials

From the London Times.

On the same day lately two items of news were published, one from Persia, the other from the United States, but both of interest to the editors of newspapers, and perhaps to their readers. A Persian newspaper had joked about titles conferred upon the victors in a recent battle; whereupon the Minister of War sent for the editor, gave him 200 lashes and put him in prison. The American attempt to deal with an editor was less punitively ingenuous, but also less successful. The Mayor of Chicago brought an action for libel against The Chicago Tribune, claiming £2,250,000 damages on the ground that the paper had to that extent impaired the credit of the city by its attacks on the municipal administration; but the action was dismissed. The methods of the Minister and the Mayor were different, but their motives and their aims were the same; both resented criticism, and both tried to suppress it. No doubt the Mayor would have acted like the Minister if the institutions of his country had allowed him to do so; and no doubt Mayor and Minister alike believed that they were acting in the public interest. Officials always have believed, and always will believe, that it is wrong to criticize them; they are experts, and know better than any editor what ought to be done; if they sometimes do evil that good may come, they are to be judged by the good they intend, not by the evil they do, or, rather, they are not to be judged at all, but left free to get on with their job, whatever it may be. Only by long and painful experience have Western nations learned that freedom of criticism, with all its drawbacks, is better than the freedom of officials to do as they please.

TORONTO (Ontario) *Tribune*, Oct. 27, 1921.

Free Press Necessary

The decision of Judge Harry Fisher that the City of Chicago had no actionable cause against The Chicago Tribune and News in the $10,000,000 damage suits instituted by the nefarious Thompson administration posi-

tively and specifically upholds the freedom of the press as a constitutional right. The press is at liberty, the court held, not only to exercise the equivalent of free speech in printing news and expressing opinion, but to expose wrongdoing in public office and even to attack public servants.

Modern society could not exist in security, nor representative government endure, without alert, just, impartial, vigorous and fearless publicity. And the untrammeled press, sincere in motive and honest in purpose, is the most indispensable of public institutions. The church, the schools, commerce, the people and the government itself depend on the daily newspaper as their most valuable and necessary auxiliary, using it constantly as their own medium to advance the general welfare.

As the press is public, it must be free. Because it is responsible to the public, its abuse of power need not be feared, for the public would cease to support a newspaper that violated its trust or failed in its duty. Putting the press in chains would be the same as shackling the people. In the finality, it is by its fulfillment of public obligations that a newspaper merits respect and wields influence, and by disregard of public interests or the common weal that it destroys itself.

Ce Qu'il Faut Savoir

Liberte de la Presse

Un joli procès de 2.250.000 livres de dommages et intérêts a été intenté à la "Chicago Tribune" par la municipalité de Chicago.

La "Chicago Tribune" avait publié une série d'articles critiquant les extravagances de l'administration municipale de Chicago et déclarant que ces extravagances avaient amené l'administration à une véritable banqueroute.

Le maire, M. Thompson, qui se fit remarquer pendant la guerre par ses manifestations pro-allemandes, et les autres membres de l'administration répondirent en assignant le journal pour entendre dire que ses articles étaient diffamatoires et prétendant que les articles de la "Chicago Tribune" avaient nui au crédit de la ville, ils

réclamaient au nom de cette dernière, 2.250.000 livres sterling, pour répondre du tort causé.

Le journal opposa à cette demande d'incompétence que le juge admit en déclarant que l'action n'était en harmonie ni avec le génie, ni avec l'esprit, ni avec le but des institutions américaines.

Le juge ajouta que si une telle action pouvait être admise, les autorités publiques auraient à leur portée un moyen trop aisé d'intimider la presse et de réduire leurs adversaires au silence.

La presse, dit-il encore, est devenue "les yeux et les oreilles du public. Elle est le porte-parole des faibles et des souffrants. Elle a le droit de commenter les actes des fonctionnaires et des gens en place. Si ce droit n'existait pas, les bons administrateurs, les bienfaiteurs du pays resteraient inconnus: les imposteurs ne seraient jamais démasqués et les fonctions publiques seraient le riche butin des démagogues."

Conclusion:

Quel magnifique jugement de bon sens.

Ceci est un peu semblable à mon cas actuel.

Pourquoi suis-je devenu publiciste après la guerre?

Dans le but seul de critiquer et de combattre un autoritaire incapable qui aurait été heureux d'abattre tous les petits fonctionnaires et autres.

Il est parti de Boulogne, nous n'en causerons plus. Paix à sa triste mémoire.

Pierre LENNE.

DEC 16 1959